

EXHIBIT 8

(PART 1 OF 3)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

APPLE INC., A CALIFORNIA)	C-12-00630 LHK
CORPORATION,)	
)	SAN JOSE, CALIFORNIA
PLAINTIFF,)	
)	APRIL 1, 2014
VS.)	
)	VOLUME 2
SAMSUNG ELECTRONICS CO., LTD.,)	
A KOREAN BUSINESS ENTITY;)	PAGES 268-497
SAMSUNG ELECTRONICS AMERICA,)	
INC., A NEW YORK CORPORATION;)	
SAMSUNG TELECOMMUNICATIONS)	
AMERICA, LLC, A DELAWARE)	
LIMITED LIABILITY COMPANY,)	
)	
DEFENDANTS.)	
)	

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE LUCY H. KOH
UNITED STATES DISTRICT JUDGE

APPEARANCES ON NEXT PAGE

OFFICIAL COURT REPORTERS:	LEE-ANNE SHORTRIDGE, CSR, CRR
	CERTIFICATE NUMBER 9595
	IRENE RODRIGUEZ, CSR, CRR
	CERTIFICATE NUMBER 8074

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY
TRANSCRIPT PRODUCED WITH COMPUTER

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A P P E A R A N C E S:

FOR PLAINTIFF MORRISON & FOERSTER
APPLE: BY: HAROLD J. MCELHINNY
RACHEL KREVANS
425 MARKET STREET
SAN FRANCISCO, CALIFORNIA 94105

WILMER, CUTLER, PICKERING,
HALE AND DORR
BY: WILLIAM F. LEE
60 STATE STREET
BOSTON, MASSACHUSETTS 02109

BY: MARK D. SELWYN
950 PAGE MILL ROAD
PALO ALTO, CALIFORNIA 94304

FOR SAMSUNG: QUINN, EMANUEL, URQUHART & SULLIVAN
BY: JOHN B. QUINN
WILLIAM PRICE
865 S. FIGUEROA STREET, FLOOR 10
LOS ANGELES, CALIFORNIA 90017

BY: VICTORIA F. MAROULIS
KEVIN B. JOHNSON
555 TWIN DOLPHIN DRIVE
SUITE 560
REDWOOD SHORES, CALIFORNIA 94065

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DEFENDANT'S

1 FIREHOSE.

2 BUT IF WE DO OUR JOB, WE WILL MAKE THAT TECHNOLOGY AND
3 THAT EVIDENCE UNDERSTANDABLE TO YOU.

4 IF WE DO OUR JOB, YOU WILL KNOW WHO THE TRUE INVENTORS AND
5 INNOVATORS ARE.

6 IF WE DO OUR JOB, YOU WILL KNOW WHO THE COPIER IS.

7 IF WE DO OUR JOB, YOU WILL KNOW WHO THE INFRINGER IS.

8 AND, LADIES AND GENTLEMEN, IF WE DO OUR JOB AND WE FOCUS
9 YOU ON THE RISK THAT APPLE TOOK TO REVOLUTIONIZE THE WORLD, WE
10 WILL BRING YOU THE EVIDENCE TO DETERMINE WHAT PATENTS AND
11 INNOVATION ARE REALLY WORTH.

12 THANK YOU.

13 THE COURT: OKAY. TIME IS NOW 11:46. WE'LL STOP AT
14 NOON. OKAY? THANK YOU.

15 MR. QUINN: OKAY. OPENING.

16 THE COURT: 11:47. GO AHEAD, PLEASE.

17 MR. QUINN: THANK YOU, YOUR HONOR.

18 **(MR. QUINN GAVE HIS OPENING STATEMENT ON BEHALF OF**
19 **DEFENDANTS.)**

20 MR. QUINN: GOOD MORNING, FOLKS. IT'S STILL MORNING.

21 WOW. I CAN WONDER WHY SOME OF YOU MIGHT BE LOOKING A
22 LITTLE SIDEWAYS AT ME RIGHT NOW AFTER HEARING THAT PRESENTATION
23 OF APPLE'S CASE FROM TWO VERY SKILLED LAWYERS.

24 BUT DURING JURY SELECTION, YOU PROMISED US THAT YOU'D KEEP
25 AN OPEN MIND UNTIL YOU HEARD ALL THE EVIDENCE, AND I'M SURE

1 THAT YOU APPRECIATE THAT YOU'VE ONLY HEARD A SMALL PART OF THE
2 STORY AT THIS POINT.

3 SO I'D LIKE TO TALK TO YOU ABOUT SOME IMPORTANT FACTS THAT
4 NEITHER MR. MCELHINNY NOR MR. LEE SPOKE ABOUT IN THEIR
5 STATEMENTS TO YOU.

6 BEFORE I SIT DOWN, I'M GOING TO PROVE TO YOU, DURING THE
7 COURSE OF THIS TRIAL, WE WILL PROVE TO YOU THAT, YES, APPLE IS
8 A GREAT COMPANY, BUT THEY DON'T OWN EVERYTHING. THEY DON'T OWN
9 THE ONLY WAY TO SEARCH ON PHONES. THEY DON'T OWN THE ONLY WAY
10 TO SYNC. THEY DON'T OWN THE ONLY WAY TO HAVE AN UNLOCK SCREEN
11 ON A PHONE.

12 WE WILL PROVE TO YOU THAT THEY VASTLY OVERSTATED THE
13 SCOPES OF THOSE PATENT CLAIMS AND THAT THEY'RE COUNTING ON YOU
14 TO BE CONFUSED AND NOT UNDERSTAND THAT, YES, INDEED, THESE ARE
15 VERY, VERY NARROW SOFTWARE CLAIMS THAT COVER ONE ABILITY, ONE
16 WAY TO DO SOMETHING THAT A LOT OF DIFFERENT COMPANIES DO
17 DIFFERENT WAYS.

18 AND WE WILL PROVE TO YOU -- RIGHT NOW I'M JUST GOING TO BE
19 BLUNT RIGHT NOW. THEIR REQUEST, THEY FINALLY SAID THE WORD,
20 THEY FINALLY -- I WAS WAITING. I WAS WONDERING WHETHER THEY
21 WOULD SAY IT TO YOU, THE "B" WORD, BILLIONS.

22 AND THEY PUT THAT NUMBER OUT THERE TO PUT IT IN YOUR HEADS
23 SO THAT THAT'S THE DAMAGES HORIZON THAT YOU'RE THINKING OF.

24 FOLKS, I'LL PROVE TO YOU IN MY OPENING STATEMENT THAT THAT
25 IS A GROSS, GROSS EXAGGERATION AND AN INSULT TO YOUR

1 INTELLIGENCE.

2 AS APPLE TOLD YOU, THE IPHONE WAS INNOVATIVE BACK IN 2007.
3 IT WAS THE INVENTION OF THE YEAR ALL THOSE YEARS AGO BACK IN
4 2007.

5 BUT THIS CASE IS REALLY NOT ABOUT THAT IPHONE OR ANY
6 IPHONES THAT COME AFTER IT. APPLE ADMITS, THE JUDGE HAS
7 INSTRUCTED YOU, I'M SURE IT WENT PAST YOU BECAUSE IT WAS SO
8 QUICK, THE PRELIMINARY INSTRUCTIONS AND MR. MCELHINNY
9 ACKNOWLEDGED IT, APPLE ADMITS THAT THREE OF THE FIVE PATENT
10 CLAIMS THAT IT IS SUING ON WERE NOT IN THAT IPHONE AND HAVE
11 NEVER BEEN IN ANY IPHONE SINCE. APPLE DOESN'T CONSIDER IT
12 VALUABLE ENOUGH TO EVEN USE.

13 THERE'S A FOURTH ONE, SLIDE TO UNLOCK THAT IN THEIR LATEST
14 PRODUCTS OPERATING SYSTEM, IOS 7, THEY'VE ABANDONED ALSO.
15 WE'LL PROVE THAT TO YOU AS WELL.

16 THIS CASE REALLY IS NOT -- ALSO IT'S NOT ABOUT SAMSUNG
17 COPYING APPLE.

18 THE FEATURES THAT APPLE ACCUSES IN THIS CASE ARE ALL
19 SOFTWARE FEATURES, SOFTWARE THAT RUNS ON THE SMARTPHONES AND
20 TABLETS OF MANY, MANY COMPANIES IN THE WORLD.

21 APPLE AGREES, APPLE AGREES THAT THAT SOFTWARE AND THOSE
22 FEATURES WERE PUT ON THAT SOFTWARE -- OR THOSE FEATURES WERE
23 PUT IN THAT SOFTWARE THAT'S USED BY MANY DIFFERENT COMPANIES BY
24 ENGINEERS, SOFTWARE ENGINEERS AT ANOTHER COMPANY, NOT BY
25 SAMSUNG. AND I'M NOT POINTING THE FINGER AS THEY'VE SAID.

1 WE'LL PROVE TO YOU THAT, IN FACT, THE ENGINEERS AT THAT
2 OTHER COMPANY DID INDEPENDENTLY DEVELOP THOSE SOFTWARE
3 FEATURES, AND THEY DID NOT COPY APPLE.

4 LET ME SHOW YOU WHAT I MEAN. THIS IS ONE OF THE PHONES
5 THAT'S ACCUSED IN THIS CASE. IT'S A SAMSUNG PHONE. IT'S
6 CALLED THE SAMSUNG GALAXY NEXUS. YOU CAN SEE THAT IT'S JOINT
7 EXHIBIT 29K FOR THE RECORD. THIS CAME OUT IN DECEMBER 2011, A
8 LITTLE BIT MORE THAN TWO YEARS AGO.

9 SAMSUNG ENGINEERED ALL THE HARDWARE ON THIS PHONE, EVERY
10 BIT OF IT, AND IT OFFERS, THIS PHONE OFFERS CONSUMER,
11 SMARTPHONE USERS, MANY THINGS THAT THE IPHONE DOESN'T JUST IN
12 TERMS NOW OF THE HARDWARE.

13 IT HAS A -- YOU CAN'T SEE IT VERY WELL, BUT IT HAS KIND OF
14 A CURVED SHAPE TO IT. IT FITS VERY WELL IN THE HAND.

15 IT HAS A 4.65 INCH SCREEN, WHICH IS LARGE -- A THIRD
16 LARGER THAN, YOU KNOW, THE SAMSUNG -- THE IPHONE SCREEN WAS AT
17 THE TIME THIS CAME OUT. IT'S LARGER THAN ANY SCREEN ON ANY
18 IPHONE TO THIS DAY.

19 IT HAS A REALLY, A HIGH DEFINITION, VERY, VERY CLEAR
20 SCREEN, A SUPER AMOLED SCREEN WHICH IS CLEAR. YOU CAN SEE
21 THINGS BETTER IN BRIGHT LIGHT.

22 IT'S GOT A BATTERY IN IT THAT'S SWAPPABLE. YOU CAN BUY AN
23 EXTRA BATTERY AND SWAP IT OUT WHENEVER YOU WANT. YOU DON'T
24 HAVE TO TAKE YOUR PHONE BACK TO THE STORE TO REPLACE THE
25 BATTERY.

1 IT HAS SOMETHING CALLED NEAR FIELD COMMUNICATIONS, REALLY
2 COOL. WITH A COMPATIBLE PHONE, YOU CAN CLICK THEM TOGETHER AND
3 TRANSFER FILES, INFORMATION, DATA, PHOTO FILES.

4 IT USES THE VERY HIGH SPEED FOR 4G LTE NETWORK, WHICH
5 WASN'T INTRODUCED ON THE IPHONE UNTIL MUCH TIME LATER. THIS
6 CAME OUT WITH A FASTER NETWORK SPEED.

7 THE TRUTH OF THE MATTER IS, PEOPLE AT SAMSUNG ARE VERY
8 PROUD OF THE HARDWARE THAT THEY DEVELOPED. THEY BUILT THE BEST
9 SMARTPHONES AND HARDWARE IN THE WORLD.

10 AND TECHNOLOGY REVIEWERS NOTICED WHAT SAMSUNG HAS ACHIEVED
11 WITH ITS PHONES.

12 HERE'S ONE UP HERE FROM "LAPTOP MAGAZINE." YOU CAN SEE
13 WHAT IT SAYS. THE BEST HD SCREEN ON THE MARKET.

14 "WIRED MAGAZINE," THE BEST ANDROID PHONE TO DATE. THE
15 TRUEST REPRESENTATION OF ANDROID.

16 YOU'RE GOING TO LEARN IN THIS CASE THAT WHAT -- WHY DO
17 PEOPLE BUY PHONES? THEY WANT YOU TO BELIEVE WHAT THEY ARE
18 TRYING TO SELL YOU IN THIS CASE IS THAT PEOPLE BUY PHONES
19 BECAUSE OF FIVE, YES, SMALL SOFTWARE FEATURES, PARTICULAR WAYS
20 OF ACCOMPLISHING THINGS LIKE SYNCING AND SEARCHING.

21 THAT'S WHAT THEY WANT YOU TO BELIEVE.

22 AND THAT BECAUSE OF THOSE FIVE SOFTWARE FEATURES, PEOPLE
23 BOUGHT A LOT MORE SAMSUNG PHONES, AND INSTEAD, IF SAMSUNG
24 DIDN'T HAVE THEM, PEOPLE WOULD HAVE BOUGHT A LOT MORE IPHONES.

25 BUT YOU'LL LEARN THAT IT IS THESE FEATURES THAT I SHOWED

1 YOU ON THIS PHONE, HARDWARE FEATURES, AND OTHERS LIKE IT THAT
2 CAUSED CONSUMERS TO BUY THIS PRODUCT, THINGS LIKE A HIGH
3 QUALITY SCREEN, A HIGH QUALITY CAMERA, CONNECTIVITY, BATTERY
4 LIFE, WEIGHT, SHAPE, THINGS LIKE THAT.

5 THESE ARE THE REASONS, NOT THESE PARTICULAR VARIANTS IN
6 BACKGROUND OF SOFTWARE FEATURES THAT YOU CAN'T EVEN SEE, THE
7 THINGS THAT THEY ARE SUING SAMSUNG OVER.

8 NOW, ALL OF THIS HARDWARE IN THE NEXUS WAS CREATED BY
9 SAMSUNG. EVERY BIT OF IT.

10 AND THEY'RE SUING OVER THIS.

11 IT DOES NOT ACCUSE -- APPLE DOES NOT ACCUSE ANY OF THAT
12 HARDWARE OF INFRINGING ANY OF ITS RIGHTS, AND MR. MCELHINNY
13 SHOWED YOU A SCREEN OF A NUMBER OF SAMSUNG PRODUCTS. NONE OF
14 THOSE ARE ACCUSED. NONE OF THAT HARDWARE. NONE OF THE SHAPES
15 THAT YOU SEE THERE. NONE OF THOSE ARE ACCUSED IN THIS CASE OF
16 INFRINGING ANY OF THE RIGHTS.

17 YOU MIGHT BE SURPRISED TO LEARN ONE UNDISPUTED FACT. NOT
18 A SINGLE SOFTWARE FEATURE IN THIS NEXUS PHONE, WHICH I'M
19 HOLDING IN MY HAND, WAS CONCEIVED BY SAMSUNG, WAS DEVELOPED BY
20 SAMSUNG, OR WAS CODED BY SAMSUNG. NOT ONE OF THE ACCUSED
21 FEATURES ON THIS PHONE WHICH BRINGS US ALL HERE TODAY WAS
22 DESIGNED, MUCH LESS COPIED, BY ANYONE AT SAMSUNG.

23 THE ACCUSED FEATURES ON THIS PHONE WERE DEVELOPED
24 INDEPENDENTLY BY SOME OF THE MOST SOPHISTICATED AND CREATIVE
25 MINDS IN THE SMARTPHONE INDUSTRY, THE SOFTWARE ENGINEERS AT

1 GOOGLE UP THE ROAD IN MOUNTAIN VIEW, WHO CREATED THE ANDROID
2 OPERATING SYSTEM USED BY ALL SMARTPHONE ENGINEERS, MEMBERS OF
3 THE JURY, EXCEPT FOR APPLE, USED BY ALL HARDWARE COMPANIES, ALL
4 HANDSET MANUFACTURERS, EXCEPT FOR APPLE. IN THE WAY THAT MOST
5 P.C. MAKERS USE THE MICROSOFT WINDOWS OPERATING SYSTEM, ALMOST
6 ALL, EVERYBODY BUT APPLE, IN THE SMARTPHONE INDUSTRY USES
7 ANDROID SOFTWARE, NOT JUST SAMSUNG.

8 AND IN THIS TRIAL, YOU WILL HEAR FROM THOSE GOOGLE
9 ENGINEERS. AND MR. MCELHINNY SAID WE'RE GOING TO POINT THE
10 FINGER AT GOOGLE. WE'RE NOT GOING TO POINT THE FINGER AT
11 GOOGLE. GOOGLE DIDN'T COPY. THOSE GOOGLE ENGINEERS, WHO YOU
12 WILL HEAR FROM IN THIS TRIAL, WILL EXPLAIN TO YOU HOW THEY
13 INDEPENDENTLY DEVELOPED THIS SOFTWARE WITHOUT COPYING.

14 THIS CASE IS REALLY NOT ABOUT THESE FIVE MINOR SOFTWARE
15 FEATURES AND PATENT CLAIMS THAT APPLE IS ASSERTING. IT'S NOT
16 ABOUT THEM CAUSING PEOPLE NOT TO BUY IPHONES AND INSTEAD TO BUY
17 SAMSUNG PHONES.

18 IPHONE DOESN'T EVEN USE FOUR OUT OF THESE FIVE FEATURES.

19 SMARTPHONES INVOLVE HUNDREDS OF DIFFERENT FEATURES, SOME
20 OF THEM BIG, SOME OF THEM SMALL.

21 YOUR COMMON SENSE -- AND SEVERAL EXPERTS WHO WILL COME IN
22 AND TESTIFY AND WILL TELL YOU THAT CONSUMERS DON'T CHOOSE ONE
23 PHONE OVER ANOTHER BECAUSE OF THE PARTICULAR WAY WORD
24 CORRECTION SUGGESTIONS ARE PRESENTED ON THE SCREEN, WHICH IS
25 WHAT THEIR PATENT COVERS. THERE'S A LOT OF DIFFERENT WAYS TO

1 DO THAT.

2 THEY DON'T BUY A PHONE BECAUSE OF THE PARTICULAR WAY THAT
3 THE SOFTWARE SYNC'S IN BACKGROUND. THERE'S MORE THAN ONE WAY TO
4 DO THAT.

5 OR THE PARTICULAR DESIGN OF THE UNLOCK SCREEN. THAT'S NOT
6 WHY CONSUMERS BUY PRODUCTS.

7 APPLE'S CLAIMS ARE ALL THAT NARROW. APPLE DOES THIS, TOO,
8 FOLKS. WE'LL SHOW YOU, WE WILL SHOW YOU APPLE'S REAL WORLD
9 RESEARCH THAT THEY DO. THEY KNOW WHY PEOPLE BUY PHONES. THEY
10 GO OUT AND THEY DO RESEARCH. THEY SURVEY THEM. AND THEIR OWN
11 REAL WORLD RESEARCH THAT THEY DO FOR BUSINESS EVERY SINGLE, YOU
12 KNOW, EVERY DAY, OR HOWEVER OFTEN THEY DO IT, NOT FOR COURT
13 CASES, NOT FOR HIRED EXPERTS, NOT FOR LAWYERS, BUT WHAT THEY DO
14 IN THEIR BUSINESS SHOWS THAT PEOPLE DON'T BUY -- THEY DON'T
15 EVEN ASK SMARTPHONE PURCHASERS, IPHONE PURCHASERS, DID YOU BUY
16 IT FOR THIS FEATURE OR DID YOU BUY IT FOR THAT FEATURE? THEY
17 KNOW THEY DON'T. THEY KNOW THAT'S NOT WHAT MATTERS, AND WE'LL
18 SHOW THAT TO YOU FROM APPLE'S OWN SURVEYS.

19 YET APPLE IS HERE LITERALLY SEEKING BILLIONS OF DOLLARS
20 FOR PARTICULAR SOFTWARE CONFIGURATIONS THAT ARE UNDER THE HOOD
21 IN THE PHONE THAT MOST CONSUMERS ARE NOT EVEN AWARE THAT IT'S
22 THERE, AND THEY WANT TO TAKE THAT BIG NUMBER NOT ONLY TO THE
23 BANK, NOT ONLY TO THE BANK, BUT TO GET AN ORDER SAYING THAT
24 NONE OF THESE PHONES CAN BE SOLD IN THE UNITED STATES ANYMORE.
25 IT'S AN ATTACK ON ANDROID. IT'S AN ATTACK, IT'S AN ATTACK --

1 MR. MCELHINNY: OBJECTION, YOUR HONOR. THIS IS
2 ARGUMENT.

3 THE COURT: OVERRULED. OVERRULED.

4 MR. QUINN: IT'S THE TRUTH. IT'S AN ATTACK AN
5 ANDROID, AND THAT'S WHAT THIS CASE IS.

6 EVEN THOUGH MOST OF THESE PATENT CLAIMS ARE NOT VALUABLE
7 ENOUGH FOR APPLE TO USE ITSELF, IT CLAIMS THAT ANDROID USES
8 THEM AND THAT THIS CAUSES CUSTOMERS TO BUY SAMSUNG PHONES. AND
9 IF SAMSUNG DIDN'T HAVE THESE FEATURES, THEY'D SELL MORE APPLE
10 PHONES EVEN THOUGH A CUSTOMER LOOKING FOR FOUR OF FIVE OF THESE
11 FEATURES COULDN'T FIND THEM IN AN APPLE PHONE, THEY DON'T USE
12 THEM.

13 AS TO THREE OF THEM, THAT'S UNDISPUTED.

14 SLIDE TO UNLOCK, WE'LL PROVE THAT TO YOU.

15 THE ONLY WAY THAT APPLE CAN MAKE THIS CLAIM FOR BILLIONS
16 OF DOLLARS IS -- WHICH CONFLICTS WITH ALL THE REAL WORLD
17 EVIDENCE YOU'RE GOING TO SEE -- IS TO COME UP WITH A STUDY
18 WHICH THEY DID SPECIALLY FOR YOU BY THE MAN WHOSE NAME WAS
19 INTRODUCED TO YOU, DR. JOHN HAUSER. AND I'M GOING TO SPEND
20 SOME TIME TALKING WITH YOU THIS AFTERNOON ABOUT DR. HAUSER AND
21 THE SURVEY, AND I WILL SHOW YOU THAT STUDY.

22 WHAT THIS CASE IS REALLY ABOUT IS APPLE TRYING TO LIMIT
23 CONSUMER CHOICE AND TO GAIN AN UNFAIR ADVANTAGE OVER ITS ONE
24 MAJOR COMPETITOR, GOOGLE'S ANDROID, A COMPETITOR THAT HAS
25 PASSED APPLE IN SOME RESPECTS.

1 DON'T GET ME WRONG, APPLE IS AN AMAZINGLY INNOVATIVE
2 COMPANY.

3 BUT IN SOME RESPECTS YOU'LL SEE GOOGLE'S ANDROID HAS
4 PASSED APPLE.

5 AND IN THIS CASE, APPLE HAS SUED -- THIS IS WHAT'S GOING
6 ON HERE -- THE BIGGEST USER OF GOOGLE'S ANDROID SOFTWARE AND
7 THE MOST SUCCESSFUL MANUFACTURER OF ANDROID PHONES, SAMSUNG, TO
8 TRY TO PREVENT IT FROM SELLING PHONES WITH THAT LEADING ANDROID
9 SOFTWARE AND TO GET THE PROFITS THAT SAMSUNG HAS EARNED SELLING
10 ANDROID PHONES.

11 IT IS TRYING TO GAIN FROM YOU IN THIS COURTROOM WHAT IT
12 HAS LOST IN THE MARKETPLACE.

13 YOUR HONOR, WOULD THIS BE A GOOD PLACE TO BREAK?

14 THE COURT: IT'S 12:01. LET'S GO AHEAD AND BREAK FOR
15 LUNCH. WE'LL SEE EVERYONE BACK AT 1:00 O'CLOCK.

16 PLEASE DON'T RESEARCH OR DISCUSS THE CASE.

17 THANK YOU FOR YOUR PATIENCE AND YOUR SERVICE.

18 (JURY OUT AT 12:02 P.M.)

19 THE COURT: THE JURORS HAVE LEFT THE COURTROOM.

20 THANK YOU.

21 (THE LUNCH RECESS WAS TAKEN FROM 12:02 P.M. TO 12:59 P.M.)
22
23
24
25

AFTERNOON SESSION

(JURY OUT AT 12:59 P.M.)

THE COURT: WELCOME. TAKE A SEAT, PLEASE. I UNDERSTAND THERE'S A SEALING ISSUE. IS THAT RIGHT? IS THERE AN ISSUE?

MR. MCELHINNY: THERE IS, YOUR HONOR.

THE COURT: OH, OKAY.

MR. SELWYN: GOOD AFTERNOON, YOUR HONOR. WITH THE FIRST WITNESS THIS AFTERNOON --

THE COURT: YES.

MR. SELWYN: -- MR. SCHILLER, SAMSUNG, WE UNDERSTAND, EXPECTS TO USE CERTAIN CONFIDENTIAL BUSINESS INFORMATION OF APPLE THAT DISCUSSES FUTURE BUSINESS STRATEGY, CAPACITY INFORMATION, FINANCIAL INFORMATION.

OUR SUGGESTION TO SAMSUNG WAS THAT WE HANDLE THOSE DOCUMENTS MUCH THE WAY WE'VE HANDLED SOURCE CODE IN THE PAST, WHICH IS SHOW IT TO THE JURY AND COUNSEL, NOT PUT IT UP ON THE SCREEN, AND HAVE COUNSEL REFER TO LINES OF THE DOCUMENT RATHER THAN READING ALOUD THE DOCUMENTS TO THE PUBLIC.

THAT WOULD BE ACCEPTABLE TO APPLE, THAT'S WHAT WE'VE DONE IN THE PAST, AND THEN APPLE WOULD MOVE TO SEAL THE DOCUMENT.

WE UNDERSTAND THAT THERE ARE PORTIONS OF CERTAIN DOCUMENTS THAT SAMSUNG WOULD LIKE TO READ ALOUD THAT RELATE TO CONFIDENTIAL BUSINESS INFORMATION OF APPLE'S CONCERNING FUTURE STRATEGY.

1 IF SAMSUNG INTENDS TO DO THAT, THAT'S AN ISSUE FOR US.
2 THESE ARE DOCUMENTS THAT SAMSUNG HAS NEVER SEEN BEFORE.
3 SAMSUNG IS NOT ENTITLED TO SEE, VERY SENSITIVE INFORMATION
4 ABOUT APPLE'S ROADMAP AND FUTURE PRODUCT STRATEGY.

5 THE COURT: ALL RIGHT. SO YOUR REQUEST IS THAT WE,
6 WHAT, SEAL THE COURTROOM? I WOULD LIKE TO USE THE PROCEDURE
7 WE'VE USED IN THE PAST AND I DON'T SEE WHY A PARTICULAR PIECE
8 OF INFORMATION HAS GOT TO BE STATED OUT LOUD. I DON'T WANT TO
9 MOVE ALL THESE PEOPLE OUT TO THE HALLWAY.

10 MR. SELWYN: THAT IS OUR STRONG PREFERENCE AS WELL,
11 TO DO IT AS WE'VE DONE IN THE PAST, REFERRING THE WITNESS TO
12 PARTICULAR PORTIONS OF THE DOCUMENT, ASKING THE QUESTIONS ABOUT
13 THOSE PORTIONS, BUT NOT READING IT ALOUD AND NOT PUTTING IT UP
14 ON THE SCREEN.

15 MR. PRICE: THE REASON, YOUR HONOR, THE REASON THEY
16 WANT TO DO THAT IS SO THAT WE CAN'T DO AN EFFECTIVE
17 CROSS-EXAMINATION.

18 THESE DOCUMENTS DON'T HAVE ANYTHING TO DO --

19 THE COURT: JUST LET ME SEE THE DOCUMENTS.

20 MR. PRICE: SURE.

21 THE COURT: PLEASE.

22 MR. PRICE: I'LL GIVE YOU AN EXAMPLE. I'LL SHOW TO
23 YOU EXHIBIT 411. IT'S AN EXAMPLE. THEY'RE NOT GOING TO SAY OR
24 SHOW ANY OF THE NUMBERS IN THE DOCUMENT.

25 MR. SELWYN: YOUR HONOR, 411 IS AN IPHONE REVIEW FROM

1 THE SPRING OF LAST YEAR. IF YOU LOOK AT, BEGINNING AT PAGES
2 '678 AND -9, THERE'S DISCUSSION ABOUT CARRIER SUBSIDIES,
3 SPECIFIC CARRIER SUBSIDIES.

4 WE GET INTO FROM 13, 14, AND THEN MOST OF THE REMAINDER OF
5 THE DOCUMENT, 21, 22, 18 AND 19, 26 THROUGH 32, 36 THROUGH 39
6 AS FINANCIAL FORECASTS, DISCUSSIONS ABOUT SELLING --

7 THE COURT: OKAY. I'M SORRY TO INTERRUPT YOU. I
8 HAVE A JURY WAITING.

9 SO JUST GIVE ME THE PAGE NUMBERS THAT ARE IN DISPUTE, AND
10 I'M GOING TO GIVE YOU A RULING, NOT RIGHT NOW, AND WE'RE GOING
11 TO GO AHEAD WITH THIS OPENING STATEMENT.

12 OKAY. SO WHAT ARE THE NUMBERS IN DISPUTE? I'LL TAKE A
13 LOOK, AND I'LL LET YOU KNOW WHAT MY RULING IS BEFORE
14 MR. SCHILLER TESTIFIES.

15 MR. SELWYN: THANK YOU.

16 THE COURT: WHAT ARE THE PAGE NUMBERS THAT ARE IN
17 DISPUTE?

18 MR. PRICE: I CAN MAKE IT EASIER BY TELLING YOU THE
19 PAGES I WOULD USE.

20 THE COURT: OKAY.

21 MR. PRICE: IT'S IN A DOCUMENT LIKE THIS, THE VERY
22 SAME INFORMATION.

23 THE COURT: NO, NO. I WANT TO SEE THE DOCUMENT YOU
24 WANT TO USE. I WANT TO SEE THE PAGES THAT ARE IN DISPUTE. I
25 DON'T WANT IT'S LIKE THIS KIND OF REPRESENTATION.

1 MR. PRICE: 413, 413 THEN, YOUR HONOR.

2 THE COURT: 413. YOU MEAN DX 413?

3 MR. PRICE: YES, YOUR HONOR, DX 413.

4 THE COURT: AND ANY PARTICULAR PAGES, OR THE WHOLE
5 THING.

6 MR. PRICE: YES. IN PARTICULAR, YOUR HONOR, PAGE 8.

7 THE COURT: OKAY. ALL RIGHT. WHAT ELSE?

8 MR. PRICE: PAGE 14.

9 THE COURT: ALL RIGHT. PAGE 8, I'M NOT GOING TO
10 ALLOW YOU TO DO THIS OPEN. THESE ARE PROJECTIONS FOR FUTURE.

11 MR. PRICE: NO. THESE ARE CURRENT, YOUR HONOR.

12 THE COURT: WHEN IS YOUR FISCAL YEAR? WHEN DOES
13 APPLE'S FISCAL YEAR BEGIN AND END?

14 MR. SELWYN: OCTOBER IS THE END OF THE FISCAL YEAR.

15 THE COURT: SO IT RUNS FROM NOVEMBER TO OCTOBER?

16 MR. SELWYN: CORRECT.

17 THE COURT: SO ARE YOU IN FISCAL YEAR 2014 OR 2013?
18 OR WHAT'S YOUR CURRENT FISCAL YEAR RIGHT NOW?

19 MR. SELWYN: 2014.

20 THE COURT: OKAY. SO YOU WANT PAGE 8. WHAT ELSE?

21 MR. PRICE: PAGE 14.

22 THE COURT: OKAY.

23 MR. PRICE: AND PAGE 46.

24 THE COURT: OKAY. IS THAT IT? IS THERE ANY OTHER
25 DISPUTE?

1 MR. PRICE: ONE MOMENT, YOUR HONOR.

2 MR. SELWYN: YOUR HONOR, THE PARTIES JUST -- WE MET
3 AND CONFERRED FOR A LENGTHY AMOUNT OF TIME ABOUT AN ENTIRELY
4 DIFFERENT DOCUMENT, WHICH IS THE ONE THAT WE HAD BEEN TOLD THAT
5 THEY WERE GOING TO USE.

6 SO THESE THREE PAGES ARE NEW TO US AND HAVEN'T BEEN
7 DISCUSSED SPECIFICALLY BEFORE.

8 MR. PRICE: THEY'RE IN THE OTHER DOCUMENT AS WELL.

9 THE COURT: OKAY. WHAT HAPPENED? I RULED ON THE
10 OBJECTIONS THAT YOU ALL FILED YESTERDAY DURING LUNCH AND LAST
11 NIGHT. SO WHY AM I GETTING HIT WITH THIS WHEN I HAVE A JURY
12 WAITING FOR AN OPENING STATEMENT?

13 DID YOU CHANGE YOUR MIND --

14 MR. PRICE: NO.

15 THE COURT: -- AS TO WHAT EXHIBIT YOU WANTED TO USE?

16 MR. PRICE: OH, NO, YOUR HONOR. THESE WERE
17 DISCUSSED.

18 MR. SELWYN: YOUR HONOR, WE'VE BEEN DISCUSSING THIS
19 FOR THREE DAYS AND TRYING TO GET SPECIFICITY ABOUT WHAT WILL BE
20 OFFERED.

21 THIS IS THE FIRST TIME WE'VE HEARD ABOUT THESE THREE PAGES
22 IN PARTICULAR, AND WE'VE BEEN ASKING TO UNDERSTAND WHAT PAGES
23 WOULD BE USED.

24 WE WERE DISCUSSING BEFORE EXHIBIT 411. WE MAY BE ABLE TO
25 RESOLVE THESE THREE PARTICULAR PAGES. THIS IS THE FIRST TIME

1 WE'RE HEARING ABOUT THESE.

2 THE COURT: ALL RIGHT. WELL, WE'RE GOING FORWARD
3 WITH AN OPENING STATEMENT. I'M NOT HAVING THIS JURY WAIT ANY
4 LONGER.

5 SO WHY DON'T YOU MEET AND CONFER, AND LET ME KNOW IF YOU
6 STILL HAVE A PROBLEM. OTHERWISE I'LL GIVE YOU MY RULING ON
7 THESE THREE DOCUMENTS. OKAY.

8 MR. SELWYN: THANK YOU.

9 THE COURT: BUT I'M GOING TO KEEP THIS BINDER.

10 MR. PRICE: THANK YOU, YOUR HONOR.

11 THE COURT: AND IN THE FUTURE, I WANT YOUR SEALING
12 OBJECTIONS IN THE OBJECTIONS THAT YOU'RE FILING, OKAY?

13 SO WHEN YOU IDENTIFY AN EXHIBIT THAT YOU INTEND TO USE,
14 YOU NEED TO IDENTIFY THE PAGE NUMBERS, OKAY?

15 MR. PRICE: I HEAR YOU, YOUR HONOR.

16 THE COURT: ALL RIGHT. THANK YOU.

17 (JURY IN AT 1:06 P.M.)

18 THE COURT: ALL RIGHT. WELCOME BACK. PLEASE TAKE A
19 SEAT.

20 MR. QUINN, IF YOU WOULD PLEASE CONTINUE.

21 MR. QUINN: THANK YOU, YOUR HONOR.

22 THE COURT: THE TIME IS NOW 1:07. GO AHEAD, PLEASE.

23 MR. QUINN: THANK YOU, YOUR HONOR.

24 BEFORE LUNCH I SHOWED YOU THIS NEXUS PHONE, WHICH IS ONE
25 OF THE ACCUSED PHONES HERE. AS I TOLD YOU, ALL THE HARDWARE IN

1 HERE IS MADE BY SAMSUNG. NONE OF THE SOFTWARE. IT'S PURE
2 ANDROID.

3 THERE ARE SOME PHONES, SOME SAMSUNG PHONES WHERE THE
4 ANDROID SOFTWARE IS SLIGHTLY MODIFIED BY SAMSUNG WHEN WE GET IT
5 AND PUT IT IN THE PHONE.

6 BUT JUST SO YOU KNOW, APPLE'S POSITION IS THAT THOSE
7 MODIFICATIONS DON'T MAKE ANY DIFFERENCE, THAT THE MONEY IS OWED
8 ANYWAY.

9 SO THIS IS REALLY ABOUT APPLE VERSUS GOOGLE'S ANDROID, AND
10 I WANT TO TALK TO YOU A LITTLE BIT ABOUT THAT COMPETITION. AND
11 I'M GOING TO -- AND WHAT THE EVIDENCE IS GOING TO SHOW ABOUT
12 THAT COMPETITION AND ABOUT WHAT APPLE HAS CALLED IN ITS OWN
13 INTERNAL E-MAILS THE INNOVATOR'S DILEMMA.

14 NOW, THE INNOVATOR'S DILEMMA IS ACTUALLY A PRETTY WELL
15 UNDERSTOOD CONCEPT IN ACADEMIC RESEARCH AND TECHNOLOGY. THE
16 INNOVATOR'S DILEMMA OCCURS WHEN, AND THESE ARE APPLE'S WORDS,
17 THEY'RE STEVE JOBS' WORDS, WHEN A MARKET LEADER HANGS ON TO AN
18 OLD PARADIGM FOR TOO LONG. AND WHEN THAT HAPPENS, WHEN A
19 MARKET LEADER HANGS ON TO AN OLD PARADIGM FOR TOO LONG, IT
20 BECOMES VULNERABLE TO INNOVATION BY OTHERS.

21 APPLE WAS AN INNOVATOR, BUT IN 2011, THERE WAS ANOTHER
22 COMPANY THAT GOT INTO THE SMARTPHONE WORLD, WHICH WAS ALSO VERY
23 INNOVATIVE, AND THAT'S GOOGLE.

24 WE ALL KNOW GOOGLE. I DON'T NEED TO SPEND MUCH TIME
25 INTRODUCING GOOGLE TO YOU. IT STARTED AS A SEARCH COMPANY

1 HERE, TWO GUYS, STANFORD UNIVERSITY, IN A GARAGE. I THINK MANY
2 OF YOU KNOW THE STORY.

3 IT STARTED OUT DOING SEARCH, BUT NOW SO MANY DIFFERENT
4 APPLICATIONS, HUNDREDS OF PEOPLE USE IT EVERY DAY, MAPS, GPS,
5 YOUTUBE, GOOGLE DOC, GOOGLE VOICE, GOOGLE NEWS. LOTS OF
6 DIFFERENT THINGS WHICH PEOPLE FIND VERY, VERY USEFUL IN THEIR
7 EVERY DAY LIVES.

8 THEY HAVE THE FINEST SOFTWARE ENGINEERS IN THE WORLD. IT
9 SEEMS ON LINE THEY CAN DO JUST ABOUT ANYTHING. THEY DON'T NEED
10 TO COPY PEOPLE. THEY DON'T NEED TO COPY APPLE.

11 LET ME TELL YOU ABOUT THE ANDROID STORY AND HOW THE
12 DEVELOPMENT OF THE ANDROID OPERATING SYSTEM HAPPENED AT GOOGLE.

13 BACK IN 2005, TWO YEARS BEFORE THE IPHONE CAME OUT, EIGHT
14 PEOPLE WHO HAD EXPERIENCE DEVELOPING SMARTPHONES GOT TOGETHER,
15 THEY JOINED GOOGLE, AND SET OUT TO SOLVE A PROBLEM IN THE PHONE
16 INDUSTRY.

17 THE PROBLEM WAS THAT HISTORICALLY THE PHONE INDUSTRY HAD
18 BEEN VERY CLOSED. CARRIERS BASICALLY TOLD HANDSET
19 MANUFACTURERS WHAT PHONES HAD TO DO, WHAT THEY HAD TO LOOK
20 LIKE.

21 AND ALL THE DIFFERENT HANDSET MANUFACTURERS, THE PHONE
22 MAKERS WERE MAKING THEIR OWN HARDWARE AND TRYING TO MAKE THEIR
23 OWN SOFTWARE AT THE SAME TIME, AND IT TURNS OUT THAT THE
24 HANDSET MANUFACTURERS WEREN'T THE BEST IN THE WORLD AT MAKING
25 CUTTING EDGE SOFTWARE.

1 AND BY THE TIME THEIR SOFTWARE GOT TO MARKET, OFTEN THEY
2 WERE BEHIND.

3 SO THESE EIGHT PEOPLE WHO JOINED GOOGLE HAD THE IDEA THAT
4 WHAT THE INDUSTRY REALLY NEEDED WAS A SHARED, OPEN PLATFORM
5 THAT EVERYONE COULD USE AND CUSTOMIZE AND USE TO INNOVATE AND
6 IMPROVE.

7 AND THEY THOUGHT IT WOULD BE BEST IF THIS SOFTWARE, THIS
8 PLATFORM, WAS NOT CONTROLLED BY JUST ONE COMPANY. INSTEAD,
9 THEY WANTED TO GIVE MANUFACTURERS, PHONE MANUFACTURERS,
10 APPLICATION DEVELOPERS, CARRIERS A PLATFORM WHICH THEY COULD
11 ALL USE, ADJUST, INNOVATE WITH, ADAPT TO THEIR OWN USES, DEEPLY
12 BRAND IT, AND TO GIVE THEM THE FREEDOM TO DO WITH THIS COMMON
13 PLATFORM WHAT THEY WANTED TO DO, OR WHAT THEY COULD DO.

14 THE IDEA WAS TO CREATE THIS OPEN SOURCE PLATFORM, ANDROID,
15 AND GIVE IT AWAY.

16 THEY SPENT THREE YEARS BUILDING IT AT GOOGLE AND GAVE IT
17 AWAY. ANYBODY CAN DOWNLOAD IT IF YOU GO TO SOURCE.ANDROID.COM,
18 AND PEOPLE IN THE INDUSTRY CAN DOWNLOAD THIS OPEN SOURCE
19 PLATFORM.

20 FROM ABOUT 2005 TO 2008, THIS GROUP WORKED TOGETHER
21 BUILDING ANDROID, WORKING LIKE KIND OF A STARTUP INSIDE A MUCH
22 BIGGER COMPANY. THEY CONTACTED MANUFACTURERS, THEY CONTACTED
23 CARRIERS TO SEE IF THEY WOULD BE INTERESTED IN THIS OPEN SOURCE
24 PLATFORM, AND IT TURNED OUT THEY WERE.

25 AND SINCE THEN, YOU KNOW, IT CAME TO MARKET. IT'S BEEN

1 EXTREMELY SUCCESSFUL.

2 IN ADDITION TO BEING ON HUNDREDS OF MILLIONS OF PHONES AND
3 TABLETS, ANDROID IS NOW IN THE DASHBOARD OF SOME CARS. IT'S --
4 YOU KNOW, THE AMAZON KINDLE RUNS ON ANDROID. EVEN GOOGLE
5 DOESN'T KNOW ALL THE DEVICES IN THE WORLD THAT RUN ON ANDROID.
6 IT'S BEEN A HUGE SUCCESS.

7 AND THAT SUCCESS IS A TESTAMENT TO THE HARD WORK AND THE
8 INGENUITY OF THE ENGINEERS AT GOOGLE AND THE ANDROID
9 MANUFACTURERS. IT IS CLEAR THAT GOOGLE'S VISION WAS RIGHT.
10 INNOVATION HAPPENS WHEN EVERYONE IS ABLE TO CONTRIBUTE THEIR
11 OWN IDEAS.

12 AND GOOGLE IS A HIGHLY INNOVATIVE COMPANY. THEY'RE
13 PERFECTLY CAPABLE OF DEVELOPING THEIR OWN SEARCH FEATURE ON A
14 PHONE WITHOUT COPYING APPLE.

15 BUT THE END OF 2010, THE TOP OF GOOGLE'S MANAGEMENT,
16 STEVE JOBS HIMSELF, RECOGNIZED THAT APPLE ITSELF FACED THE
17 INNOVATOR'S DILEMMA AND THAT GOOGLE INNOVATION WAS DISRUPTING
18 THE SMARTPHONE INDUSTRY THAT APPLE HAD DOMINATED SINCE 2007.

19 IN RESPONSE TO THIS, STEVE JOBS DECLARED, IN 2011, THAT
20 APPLE WOULD START A HOLY WAR, A HOLY WAR ON GOOGLE.

21 APPLE KNEW THAT GOOGLE WAS FURTHER ALONG IN SOME IMPORTANT
22 TECHNOLOGY SO --

23 MR. MCELHINNY: EXCUSE ME, YOUR HONOR. AGAIN, I HAVE
24 TO OBJECT. THERE'S MOTIONS IN LIMINE ON THIS.

25 THE COURT: THERE WAS A MOTION IN LIMINE THAT THAT

1 WOULD NOT BE PERMITTED, SO THAT'S STRICKEN.

2 MR. QUINN: THAT WAS --

3 THE COURT: GO AHEAD, PLEASE.

4 MR. QUINN: THAT'S NOT MY UNDERSTANDING, YOUR HONOR.

5 THE OBJECTIONS TO THIS WERE OVERRULED. THIS DOCUMENT. IT'S
6 EXHIBIT, DEFENSE EXHIBIT 489.

7 THE COURT: GO AHEAD, PLEASE, WITH THE REST OF YOUR
8 OPENING.

9 MR. QUINN: SO MR. JOBS DRAFTED THIS AGENDA IN
10 OCTOBER 2010 FOR APPLE'S ANNUAL RETREAT OF THE TOP 100
11 EXECUTIVES AT APPLE WHERE THEY GET TOGETHER AND THEY TALK
12 AMONGST THEMSELVES ABOUT WHAT IS MOST IMPORTANT TO THE COMPANY.
13 WE HAVE STEVE JOBS'S AGENDA. THERE'S NOTHING MORE
14 AUTHORITATIVE ABOUT WHAT MATTERS TO APPLE.

15 HERE IS THAT AGENDA. IT'S IN DEFENSE EXHIBIT 489, AND YOU
16 CAN SEE UP AT THE TOP HERE -- I DON'T KNOW IF WE CAN ENLARGE
17 THIS. STEVE JOBS, OCTOBER 2010, IT'S HIS CUT FOR THE AGENDA.

18 AND THEN IF WE GO FORWARD, GO DOWN BELOW, WHAT DOES HE
19 WRITE? "2011 HOLY WAR WITH GOOGLE."

20 BELOW THAT. "APPLE IS IN DANGER OF HANGING ON TO THE OLD
21 PARADIGM TOO LONG (INNOVATOR'S DILEMMA) GOOGLE AND MICROSOFT
22 ARE FURTHER ALONG ON THE TECHNOLOGY.

23 "TIE ALL OUR PRODUCTS TOGETHER SO WE CAN FURTHER LOCK
24 CUSTOMERS INTO OUR ECOSYSTEM."

25 AND THEN IF WE CAN GO FORWARD, COMPARISONS WITH GOOGLE,

1 SAMSUNG.

2 FORWARD. CATCH UP TO ANDROID WHERE WE ARE BEHIND,
3 NOTIFICATIONS, TETHERING, SPEECH.

4 AND THEN NEXT, "STRATEGY: CATCH UP TO GOOGLE CLOUD
5 SERVICES. ANDROID DEEPLY INTEGRATES GOOGLE CLOUD SERVICES.
6 WAY AHEAD OF APPLE IN CLOUD SERVICES FOR CONTACTS, CALENDARS,
7 AND MAIL."

8 DON'T HAVE TIME TO GO THROUGH THE COMPLETE DOCUMENT NOW,
9 BUT THIS WILL COME INTO EVIDENCE. YOU WILL HAVE THIS DOCUMENT.

10 A HOLY WAR ON ANDROID. THAT WAS APPLE'S STRATEGY.

11 FROM APPLE'S POINT OF VIEW, GOOGLE'S ANDROID WAS TOO
12 SUCCESSFUL. PEOPLE WERE BUYING TOO MANY ANDROID PHONES.

13 GOOGLE HAD ALWAYS BEEN A CLOUD COMPANY, AND ITS CLOUD
14 TECHNOLOGY, WHICH AMONG OTHER THINGS, ENABLED PEOPLE TO
15 WIRELESSLY SYNC, SYNC THEIR CALENDARS, CONTACTS, AND MAIL AND
16 SAVE THEIR FILES ON A CLOUD SERVER WAS FAR AHEAD OF APPLE'S AND
17 APPLE'S MISSION FOR 2011 WAS TO CATCH UP AND GET AHEAD OF
18 GOOGLE AND ANDROID, AND THIS LAWSUIT IS PART OF THAT STRATEGY.

19 SAMSUNG -- LET ME TURN NOW TO TALK ABOUT SAMSUNG.

20 SAMSUNG, AS MR. MCELHINNY SAYS, HE'S RIGHT, HE'S BEEN A
21 MOBILE PHONE INDUSTRY LEADER SINCE THE EARLY 1990S, LONG BEFORE
22 APPLE LAUNCHED THE IPHONE JUST SEVEN YEARS AGO. THERE HAVE
23 BEEN MANY FIRSTS THAT SAMSUNG HAS CONTRIBUTED TO THE CELL PHONE
24 WORLD.

25 IF WE COULD LOOK AT SLIDE 14.

1 YOU CAN SEE SOME OF THEM UP THERE. FIRST 3G PHONES, FIRST
2 3G WINDOWS SMARTPHONE, FIRST CAMERA PHONE, MORE 4G LTE PRODUCTS
3 IN THE YEAR BEFORE APPLE DID, RECOGNITION SOFTWARE, HIGH DEF
4 DISPLAYS.

5 SAMSUNG HAS CONTINUED THAT INNOVATION TO THIS DAY, OFFERED
6 LARGER SCREENS, PHONES THAT WORK WITH STYLUSES, AND PHONES THAT
7 CAN TRANSFER PHOTOS, VIDEOS AND OTHER DOCUMENTS JUST BY
8 CLICKING THE PHONES TOGETHER.

9 THE PATENT OFFICE HAS RECOGNIZED SAMSUNG'S HARD WORK, AND
10 I FIND IT VERY IRONIC THAT APPLE'S COUNSEL WOULD SAY THAT
11 SAMSUNG DOESN'T CARE ABOUT PATENTS.

12 LAST YEAR THE UNITED STATES PATENT AND TRADEMARK OFFICE
13 AWARDED SAMSUNG THE SECOND HIGHEST NUMBER OF PATENTS IN THE
14 WORLD OF ANY COMPANY IN THE WORLD. NUMBER 1 WAS IBM. SAMSUNG
15 CARES ABOUT PATENTS.

16 LET ME SHOW YOU ANOTHER PHONE, ANOTHER EXAMPLE OF ONE OF
17 SAMSUNG'S MOST INNOVATIVE PHONES. IT'S ANOTHER PHONE THAT
18 APPLE IS SUING OVER HERE.

19 THIS IS THE GALAXY NOTE II. THIS PHONE HAS -- IT WAS
20 RELEASED IN OCTOBER 2012. IT'S ONE OF THE PHONES THAT APPLE
21 SAYS WE WOULDN'T HAVE SOLD SO MANY OF THEM IF WE DIDN'T HAVE
22 THESE PARTICULAR VERSIONS OF THESE SOFTWARE FEATURES.

23 THIS PHONE HAS JUST A TON OF UNIQUE FEATURES. SOME OF
24 THEM UP ON THE SCREEN THERE, THE MULTI WINDOW BROWSING, THE
25 VERY HIGH SPEED PROCESSOR, TWO GIGABYTES OF MEMORY.

1 MANY THINGS ON THIS PHONE THAT YOU CAN'T GET ON THE
2 IPHONE. SOME PEOPLE WANT THESE FEATURES. IT'S NOT THESE KINDS
3 OF SMALL FEATURES THAT APPLE IS SUING OVER THAT CAUSED THESE
4 PEOPLE TO BUY THE PHONES.

5 SAMSUNG AND APPLE'S HARDWARE WENT IN VERY DIFFERENT
6 DIRECTIONS IN 2013. YOU CAN SEE A BIG DIFFERENCE IN THEIR
7 PRODUCTS UP THERE ON THE SCREENS, SOME COMPARISONS OF SOME OF
8 THE MORE RECENT PRODUCTS.

9 WE WILL PROVE TO YOU IN THIS CASE THAT IT'S THESE
10 FEATURES, THE KIND OF FEATURES I'M SHOWING YOU ON THE NEXUS, ON
11 THE GALAXY NOTE, THINGS LIKE LARGE SCREENS, REPLACEABLE
12 BATTERIES, VERY HIGH QUALITY CAMERA AND SPEED, USE OF STYLUSES,
13 THEY ARE THE KINDS OF THINGS THAT DISTINGUISH SAMSUNG PRODUCTS
14 AND CAUSE PEOPLE TO BUY THOSE PHONES.

15 THAT'S THE REASON WHY SAMSUNG IS THE LEADING MANUFACTURER
16 OF ANDROID POWERED PHONES. IT'S WHAT SETS SAMSUNG APART FROM
17 ALL THE OTHER PHONES THAT USE THIS SAME OPEN SOURCE ANDROID
18 PLATFORM.

19 ANOTHER IMPORTANT REASON THAT SAMSUNG SELLS PHONES IS IT'S
20 BEEN ABLE TO DO SOME VERY SUCCESSFUL ADVERTISING AND
21 DEVELOPMENT OF ITS BRAND.

22 IN 2011 SAMSUNG HIRED A NEW U.S. MARKETING CHIEF, A MAN BY
23 THE NAME OF TODD PENDLETON. AND THEY HIRED HIM FROM NIKE. AND
24 HE APPROACHED ADVERTISING FOR SAMSUNG IN KIND OF A VERY
25 DIFFERENT WAY. HE STARTED LOOKING AT SOCIAL MEDIA, TWITTER,

1 FACEBOOK, WEBSITES, AND TRACKING WHAT PEOPLE WERE SAYING ABOUT
2 SAMSUNG'S PHONES.

3 AND THEN HE USED WHAT HE LEARNED FROM SOCIAL MEDIA TO
4 CREATE ADS, AND THEY SOUNDED REAL TO PEOPLE BECAUSE THEY'RE NOT
5 ADS THAT WERE WRITTEN BY AD EXECUTIVES, BUT ADS, THINGS THAT
6 PEOPLE WERE, REAL PEOPLE WERE SAYING ABOUT THEMSELVES AND ABOUT
7 REAL PHONES.

8 AND AROUND THE TIME THAT SAMSUNG WAS DOING THAT AND
9 CHANGING ITS SHIFT AND ITS APPROACH TO ADVERTISING, THERE WAS
10 AN ARTICLE THAT CAME OUT IN THE "WALL STREET JOURNAL,"
11 OCTOBER 5, 2011, ABOUT THE LAUNCH OF THE IPHONE 4S.

12 AND BASICALLY THE GIST OF THE ARTICLE WAS THAT THE IPHONE
13 4S WAS A REALLY GOOD PHONE, BUT IT WAS MORE, AS THE ARTICLE
14 SAID, MORE FIZZLE THAN POP.

15 AND IN THE MIDDLE OF THIS ARTICLE WAS A BOX, AND THE BOX
16 COMPARED THE IPHONE 4S, APPLE'S NEW PHONE, WITH THE SAMSUNG
17 GALAXY S II. AND IN THIS BOX, IN THE "WALL STREET JOURNAL,"
18 THE TWO OF THEM WERE COMPARED FEATURE BY FEATURE.

19 AND FROM THAT COMPARISON, THE UPSHOT WAS PRETTY CLEAR THAT
20 ALTHOUGH THE IPHONE 4S WAS A VERY FINE PHONE, THE SAMSUNG PHONE
21 WAS ACTUALLY BETTER.

22 AND TODD PENDLETON, THE NEW HEAD OF MARKETING FOR SAMSUNG,
23 SEIZED ON THIS TO START A NEW ADVERTISING CAMPAIGN, THE NEXT
24 BIG THING IS ALREADY HERE.

25 AND THIS ADVERTISING CAMPAIGN USED THE VOICE OF THE

1 CONSUMER, PRESENTED IN KIND OF AN AMUSING WAY, AND THIS THEME
2 OF THE NEXT BIG THING IS ALREADY HERE TO CREATE A DISTINCTIVE
3 BRAND PERSONALITY FOR SAMSUNG, AND IT CAUGHT ON, AND IT WAS
4 POWERFUL. AND THAT'S ANOTHER REASON SAMSUNG HAS BEEN VERY
5 SUCCESSFUL IN SELLING PHONES.

6 AND SAMSUNG'S BRAND BECAME AS STRONG AS APPLE'S. HERE'S
7 AN INTERNAL DOCUMENT FROM APPLE SHOWING SOME RESEARCH RESULTS.
8 YOU CAN SEE THIS IS AN APPLE DOCUMENT -- AS MR. MCELHINNY SAID,
9 WE EXCHANGED DOCUMENTS IN DISCOVERY -- AND THIS IS WHAT
10 APPLE -- IT SAYS "SAMSUNG'S BRAND IMPRESSION IS JUST AS STRONG
11 AS APPLE'S IN THE U.S.," AND HERE YOU SEE APPLE HERE AND
12 SAMSUNG HERE.

13 SO THIS NEW, EDGY MARKETING STRATEGY WAS CLEARLY PAYING
14 OFF AND, FRANKLY, IT DROVE APPLE CRAZY.

15 WE WILL SHOW YOU INTERNAL APPLE DOCUMENTS, DOCUMENTS THAT
16 HAVEN'T BEEN MADE PUBLIC BEFORE, DOCUMENTS THAT YOU WILL BE THE
17 FIRST TO SEE THAT SHOW HOW APPLE WAS REALLY CONCERNED ABOUT THE
18 COMPETITION IT WAS GETTING FROM ANDROID AND IN PARTICULAR FROM
19 SAMSUNG.

20 THE "WALL STREET JOURNAL" PUBLISHED AN ARTICLE, THE TITLE
21 OF WHICH WAS "HAS APPLE LOST ITS COOL TO SAMSUNG?"

22 AND APPLE'S HEAD OF WORLDWIDE MARKETING, PHIL SCHILLER,
23 WHO APPLE SAYS WILL BE THE FIRST WITNESS WHO WILL TESTIFY TO,
24 FORWARDED THIS TO HIS ADVERTISING AGENCY SAYING "WE HAVE A LOT
25 OF WORK TO DO TO TURN THIS AROUND."

1 MR. SCHILLER BECAME MAYBE OBSESSED IS THE RIGHT WORD WITH
2 SAMSUNG'S CAMPAIGN THAT PORTRAYED SAMSUNG AS THE YOUNGER,
3 HIPPER CHOICE, AND HE WAS FRUSTRATED THAT APPLE SEEMED
4 UNWILLING TO RESPOND.

5 APPLE HAS HAD ONE ADVERTISING COMPANY THAT THEY'VE USED
6 EXCLUSIVELY FOR YEARS. THAT ADVERTISING COMPANY HAS ONLY ONE
7 CLIENT. IT'S APPLE. THEY MEET EVERY SINGLE WEEK. THAT
8 MR. SCHILLER WROTE AN E-MAIL TO TIM COOK SAYING I THINK WE'VE
9 GOT TO START LOOKING FOR ANOTHER ADVERTISING AGENCY. WE'RE
10 JUST NOT GETTING WHAT WE NEED.

11 IT BECAME A SUBJECT OF DISCUSSION AT THE BOARD OF DIRECTOR
12 AT APPLE, WHAT ARE YOU GOING TO DO ABOUT THIS BRANDING PROBLEM?

13 SO THEY INTRODUCED THEIR FIRST BRAND CAMPAIGN SINCE 1997,
14 IT WAS A BRAND CAMPAIGN. THE TITLE WAS SOMETHING LIKE DESIGNED
15 IN CALIFORNIA. THE FIRST TIME APPLE HAD DONE A BRAND CAMPAIGN
16 SINCE 1997 WHEN IT WAS ON THE VERGE OF BANKRUPTCY.

17 WHY ALL THIS? WHY WAS -- WHAT WAS THE SOURCE OF APPLE'S
18 CONCERN? CLEARLY SAMSUNG WAS OFFERING CONSUMERS A CHOICE, A
19 MORE -- A YOUNGER, MORE PLAYFUL TAKE ON SMARTPHONES AND
20 CONSUMERS WERE LISTENING.

21 NOW, I WANT TO TALK TO YOU ABOUT THE INFRINGEMENT AND
22 ISSUES -- INFRINGEMENT ISSUES AND VALIDITY ISSUES RELATED TO
23 EACH OF THE APPLE PATENTS IN THIS CASE.

24 BUT BEFORE I DO THAT, I WANT TO DISCUSS THE DAMAGES, WHICH
25 I'VE TOLD YOU, FRANKLY, ARE ABSURD, MULTI BILLION NUMBER OF

1 DAMAGES THAT THEY'RE SEEKING IN THIS CASE.

2 I WANT TO TALK ABOUT DAMAGES FIRST BECAUSE I THINK WHEN
3 YOU UNDERSTAND WHAT APPLE IS SEEKING AND HOW THEY WENT ABOUT
4 IT, IT'LL SHED SOME LIGHT ON THE CREDIBILITY OF APPLE'S WHOLE
5 CASE.

6 AS I'VE TOLD YOU, THESE PATENTS ARE VERY NARROW SOFTWARE
7 PATENTS THAT COVER -- THAT COVER ONE WAY TO HAVE A FEATURE THAT
8 CAN BE DONE MORE THAN ONE WAY, FEATURES -- THAT IS TO SAY, WHAT
9 A DEVICE CAN DO, SEARCH, SYNC IN BACKGROUND, THE OTHER THINGS.

10 IT'S NOT THE SAME THING AS A PATENTED CLAIM. A CLAIM MAY
11 BE ONE WAY TO ACCOMPLISH THAT FEATURE.

12 AND MANY COMPANIES, SAMSUNG, GOOGLE, OTHER COMPANIES HAVE
13 DIFFERENT WAYS OF ACCOMPLISHING THE SAME THING.

14 WE WILL SHOW YOU THAT APPLE HAS TAKEN WHAT REALLY ARE VERY
15 NARROW FEATURES AND OVERSTATED WHAT THEY DO AND WHAT THEY OWN
16 IN THEIR PATENTS TO CLAIM RIDICULOUS DAMAGES NUMBERS.

17 LET ME BEGIN AT THE END. I'M GOING TO SHOW YOU SOME
18 NUMBERS, AND YOU'LL SEE THE SOLE SUPPORT, THE ONLY WAY THEY
19 COME UP WITH THESE NUMBERS IS FROM A STUDY DONE BY DR. HAUSER.

20 AND I WANT TO TALK TO YOU ABOUT DR. HAUSER'S STUDY AT
21 LENGTH, BUT LET ME BEGIN AT THE END WITH SOME OF HIS
22 CONCLUSIONS.

23 AND I'VE PUT UP ON THE SCREEN WHAT HE'S CONCLUDED, OR SOME
24 OF HIS CONCLUSIONS.

25 AND HE CONCLUDED BASED ON HIS STUDY THAT PEOPLE WHO WOULD

1 PURCHASE A \$149 PHONE WOULD BE WILLING TO PAY AN ADDITIONAL
2 10\$2 FOR APPLE'S FORM OF WORD SUGGESTION FOR A CORRECTION; THAT
3 THEY WOULD PAY AN EXTRA \$44 FOR AN ABILITY TO SEARCH THE PHONE
4 AND THE INTERNET AT THE SAME TIME IN THE WAY, PARTICULAR WAY
5 THAT APPLE DOES.

6 TO GET JUST THESE FOUR FEATURES HE SAID THAT PEOPLE WOULD
7 BE WILLING TO PAY ALMOST DOUBLE THE PRICE OF THE PHONE, \$271 ON
8 TOP OF THE \$149 PHONE.

9 YOU CAN TELL THERE'S SOMETHING, SOMETHING FISHY HERE.

10 ANOTHER EXAMPLE OF THEIR OVERREACHING, ANOTHER FORM OF
11 DAMAGES THEY SEEK AS WAS MENTIONED IS A ROYALTY ON THESE
12 PATENTS, AND DR. -- APPLE'S OTHER EXPERT, DR. VELLTURO, TOOK
13 DR. HAUSER'S SURVEY RESULTS AND, YOU KNOW, SORT OF SAID, OKAY,
14 LET'S SUPPOSE THERE WAS A HYPOTHETICAL NEGOTIATION BETWEEN
15 APPLE AND SAMSUNG, WHAT WOULD THEY HAVE AGREED TO AS A ROYALTY?

16 AND HE CONCLUDED THAT SAMSUNG WOULD HAVE AGREED TO PAY
17 \$40.10 FOR THE SMARTPHONE PATENTS IN THIS CASE.

18 \$40.10 JUST FOR THESE FIVE SMART, SMALL SOFTWARE FEATURES.
19 JUST BY WAY OF COMPARISON, A SMARTPHONE COSTS, YOU KNOW, AT THE
20 HIGH END, SAY \$199 TO THE CUSTOMER. YOU HAVE THE SUBSIDIES
21 FROM THE CARRIERS.

22 THE \$40 PER PHONE APPLE IS ASKING FOR THESE 5 SMALL
23 SOFTWARE FEATURES IS 20 PERCENT OF THE PRICE.

24 NOW, THEIR EXPERT, DR. VELLTURO, ACKNOWLEDGES THAT SAMSUNG
25 REALLY WOULDN'T AGREE TO DO THIS BECAUSE IT WOULD TAKE UP MOST

1 OF THE PROFIT MARGIN ON THE ACCUSED PHONES IN THIS CASE, BUT NO
2 MATTER.

3 APPLE ALSO CLAIMS THAT THERE IS, ON SMARTPHONES, THEY
4 CLAIM TO HAVE 3,500 PATENTS. IF EACH OF THOSE PATENTS WAS
5 WORTH \$8 A PHONE, WHICH IS BASICALLY AN AVERAGE OF THE 5, YOU
6 KNOW, DIVIDED INTO THE 40 THEY'RE SEEKING HERE, THAT MEANS THAT
7 ONE SMARTPHONE, IF YOU WANTED TO MAKE A PHONE TO COMPETE WITH
8 APPLE AND USE THEIR PATENTS, IT WOULD COST \$28,000. 140 TIMES
9 MORE THAN THE ACTUAL COST OF THE PHONE.

10 SO, YOU KNOW, THESE ARE THE KIND OF RESULTS THAT
11 DR. HAUSER'S STUDY LED TO.

12 AND LET'S SEE NOW HOW HE GETS TO THESE CRAZY NUMBERS, AND
13 LET ME TALK ABOUT THAT STUDY.

14 REMEMBER, DR. HAUSER, THE WAY HE DOES HIS STUDY, HE'S
15 SUPPOSED TO BE DECIDING HOW MUCH PEOPLE CARE ABOUT THESE
16 FEATURES, WOULD THEY CHANGE THEIR PHONE PURCHASE DECISIONS IF
17 THE FEATURES WERE THERE OR IF THEY WEREN'T THERE.

18 THE WHOLE POINT IS TO PROVIDE THE VALUE OF THE PATENT, THE
19 DIFFERENCE BETWEEN WHAT YOU HAVE WITH THE PATENT CLAIM AND WHAT
20 YOU WOULD HAVE WITHOUT THE PATENTED CLAIM.

21 IN OTHER WORDS, IF YOU HAD ANOTHER WAY TO DO IT THAT APPLE
22 DIDN'T OWN, IT'S CALLED A NON-INFRINGEMENT ALTERNATIVE, WHAT'S
23 THE DIFFERENCE BETWEEN THE TWO OF THEM.

24 IF YOU HAVE -- IF THERE ISN'T ANOTHER WAY TO DO IT, THEN
25 THE PATENT MAY BE REALLY, REALLY VALUABLE.

1 BUT IF THERE'S ANOTHER WAY TO ACCOMPLISH THE SAME THING,
2 IT'S VERY SIMILAR AND IT'S PERFECTLY ACCEPTABLE, THE PATENT
3 REALLY MAY NOT HAVE MUCH VALUE AT ALL.

4 SO WHAT DR. HAUSER IS TRYING TO DO IS MEASURE WHAT'S THE
5 VALUE OF WHAT APPLE CLAIMS VERSUS WHAT THE ALTERNATIVE WOULD
6 BE, WHAT APPLE DOESN'T OWN.

7 AND, AGAIN, BEFORE I GO INTO THIS, LET ME EMPHASIZE HOW
8 IMPORTANT DR. HAUSER'S STUDY IS TO APPLE'S CASE. IT IS THE
9 ONLY EVIDENCE, THE ONLY EVIDENCE APPLE HAS TO SUPPORT ITS
10 CLAIMS THAT CONSUMERS MAKE SMARTPHONE PURCHASE DECISIONS BASED
11 ON THESE FIVE SMALL FEATURES.

12 HIS CONCLUSION IS, AS I'VE TOLD YOU, IF SAMSUNG DIDN'T
13 HAVE THEM, WE'D SELL A LOT FEWER AND APPLE WOULD SELL AN AWFUL
14 LOT MORE.

15 IF HE'S WRONG ABOUT THAT, THEN THEY DON'T HAVE ANY
16 EVIDENCE ON THIS AND THERE AREN'T REALLY ANY DAMAGES.

17 IF IT IS THE CASE THAT -- IF IT'S TRUE THAT PEOPLE REALLY
18 AREN'T MOTIVATED, THAT'S NOT WHY YOU BUY SAMSUNG PHONES, THEN
19 APPLE DOESN'T HAVE ANY DAMAGES.

20 SO WHAT DID DR. HAUSER DO? HE FOUND PEOPLE WHO HAD
21 PURCHASED SAMSUNG PHONES BEFORE AND ASKED THEM SOME QUESTIONS.

22 NOW, ONE OF THE THINGS HE DIDN'T ASK THEM IS WHY DID YOU
23 BUY YOUR SAMSUNG PHONE? YOU WOULD THINK THAT MIGHT BE
24 SOMETHING THAT YOU WOULD ASK.

25 INTERESTINGLY, HE SAID IN HIS REPORT THAT HE DIDN'T ASK OR

1 CARE WHETHER THE SAMSUNG CUSTOMERS WERE EVEN AWARE THAT THESE
2 FIVE FEATURES WERE IN THEIR PHONES. HE WASN'T INTERESTED IN
3 THAT.

4 HE HAS THE SUBJECTS COME IN, AND HE DOESN'T GIVE THEM
5 PHONES. HE GIVES THEM DESCRIPTIONS. BASICALLY THEY LOOK AT
6 MOCK -- THEY LOOK ON THE COMPUTER SCREEN. THEY SEE IMAGINARY
7 PHONES WITH DESCRIPTIONS OF FEATURES AND THEY ARE ASKED TO MAKE
8 A SERIES OF DECISIONS BASED ON THE DESCRIPTIONS OF THE FEATURES
9 ABOUT WOULD YOU BUY THIS PHONE OR WOULD YOU BUY THAT PHONE?

10 IN ADDITION TO THE DESCRIPTION OF THE FEATURE, WHICH IS
11 SUPPOSED TO MATCH APPLE'S PATENTED CLAIMS, WHAT IT OWNS, HE
12 ALSO ASKS -- HE TELLS THEM, IF YOU DIDN'T HAVE THAT, YOU WOULD
13 HAVE TO DO THIS. THIS IS YOUR ALTERNATIVE.

14 IN OTHER WORDS, HERE'S THE APPLE FEATURE. IF YOU DIDN'T
15 HAVE THAT, YOU WOULD HAVE TO DO THIS.

16 NOW, YOU KNOW, IF THERE'S A BIG DIFFERENCE BETWEEN THE
17 TWO, YOU'RE GOING TO GET A LOT OF PEOPLE SAYING THIS IS REALLY
18 VALUABLE.

19 BUT THE PEOPLE AREN'T GETTING PHONES. THIS IS ALL JUST
20 TEXT AND THEY GET TO WATCH A VIDEO AND THEN IN THESE
21 DESCRIPTIONS GETTING THEM ACCURATE IS REALLY, REALLY IMPORTANT
22 TO THE INTEGRITY OF THE SURVEY.

23 SO LET'S START WITH THE -- LET'S SEE WHAT HE DID. LET'S
24 TAKE A LITTLE BIT OF TIME TO WALK THROUGH THIS. I'M GOING TO
25 START WITH THE WORD CORRECTION OR WORD SUGGESTION PATENT, WHICH

1 AS MR. MCELHINNY TOLD YOU IS ONE THAT THE COURT HAS FOUND
2 INFRINGEMENT ON THIS ONE. SO I THOUGHT I WOULD TALK ABOUT THAT
3 ONE FIRST, IT'LL TAKE ME A LITTLE WHILE TO WALK THROUGH THIS,
4 BUT I THINK YOU'LL SEE THAT THE DESCRIPTIONS THAT PEOPLE WERE
5 GIVEN WERE, FRANKLY, DISHONEST. THAT'S THE PUNCH LINE HERE,
6 AND I WANT TO PROVE THAT TO YOU NOW.

7 THIS PATENT RELATES TO THE KEY WORD SOFTWARE. ON ANDROID
8 PHONES USERS CAN CHOOSE BETWEEN ANY NUMBER OF DIFFERENT
9 KEYBOARDS. KEYBOARDS ARE CONTAINED IN THE SOFTWARE FROM
10 DIFFERENT COMPANIES, FROM GOOGLE, FROM SAMSUNG, FROM A COMPANY
11 CALLED NUANCE, WHICH IS ANOTHER COMPANY THAT, YOU KNOW,
12 SUPPLIES THESE KEYBOARDS, AND THEY'RE IN SOME OF THE SAMSUNG
13 PHONES. NUANCE IS A WELL-KNOWN COMPANY. APPLE ALSO BUYS
14 INTELLECTUAL PROPERTY FROM NUANCE.

15 THE KEYBOARD SOFTWARE ARE CREATED BY SAMSUNG WHICH IS ON
16 MANY OF ITS PHONES APPLE ADMITS DOES NOT INFRINGE. IT'S THE
17 SWIPE KEYBOARD FROM NUANCE AND THE ANDROID, ONE OF THE ANDROID
18 KEYBOARDS THAT HAVE BEEN FOUND TO INFRINGE.

19 BUT SAMSUNG HAS A KEYBOARD WHICH APPLE ADMITS DOES NOT
20 INFRINGE. SO, IN OTHER WORDS, THAT'S AN ALTERNATIVE. THAT'S
21 AN ALTERNATIVE TO APPLE'S PATENTED CLAIM. IT'S SOMETHING THAT
22 APPLE DOESN'T OWN.

23 THIS -- APPLE'S CLAIM -- LET ME TAKE A LOOK AT IT. IT'S
24 THE '172 PATENT. YOU'LL SEE IT'S A VERY, VERY NARROW CLAIM
25 ABOUT A PARTICULAR WAY OF SUGGESTING WORD CORRECTIONS ON A

1 SMARTPHONE. THE TITLE OF THE PATENT IS NOT "HOW TO SUGGEST
2 WORDS."

3 IT'S "HOW SUGGESTED WORDS ARE PROVIDED AS YOU TYPE," JUST
4 LIKE THE TITLE SAYS. IT'S A METHOD FOR PROVIDING WORD
5 RECOMMENDATIONS. OKAY? IT'S NOT ABOUT WHAT WORDS TO SUGGEST.
6 IT'S ABOUT HOW SUGGESTED WORDS ARE PROVIDED AS YOU TYPE.
7 THAT'S THE APPLE PATENT.

8 IN JUNE 2011, BEFORE APPLE'S PATENTED CLAIM ISSUED,
9 SAMSUNG PUT ITS OWN NON-INFRINGEMENT KEYBOARD ON THE SAMSUNG DART
10 PHONE, AND IT'S SINCE BEEN INSTALLED ON MANY SAMSUNG PHONES,
11 SOMETIMES AS THE PRIMARY KEYBOARD, AND SOMETIMES AS AN
12 ALTERNATIVE KEYBOARD WHICH THE USER CAN SELECT. THIS
13 NON-INFRINGEMENT KEYBOARD WAS INCLUDED AS AN OPTION ON FIVE OF
14 THE PHONES THAT APPLE ACCUSES IN THIS CASE.

15 LET'S TAKE A LOOK AT IT IN SLIDE 63. THIS IS THE SAMSUNG
16 DART NON-INFRINGEMENT KEYBOARD.

17 IF YOU TYPE ON THIS KEYBOARD, IT AUTOMATICALLY CORRECTS
18 TYPING ERRORS. IT ALWAYS SHOWS THE RECOMMENDED CORRECTIONS IN
19 THIS TEXT AREA UP HERE AS YOU TYPE.

20 IF YOU TYPE, IT WILL JUST CORRECT. IT AUTOMATICALLY
21 CORRECTS.

22 IF YOU WANT TO KEEP ONE OF THE SUGGESTED SPELLINGS, THEY
23 APPEAR HERE IN THIS MESSAGE BAR DOWN HERE, YOU HAVE TO ACTUALLY
24 TOUCH ON IT.

25 SO IF YOU, IF YOU -- IF YOU'RE SENDING AN E-MAIL TO A

1 MR. MESSAF AND WANT TO KEEP THAT, AND NOT MESSAGE, YOU CAN
2 TOUCH ON THIS AND YOU'LL GET MESSAF UP ABOVE. SO YOU CAN SEE
3 UP HERE, AUTO CORRECTION IS NOT SOMETHING YOU NEED APPLE'S
4 PATENTED CLAIM FOR. WATCH, I'M GOING TO SHOW YOU A VIDEO NOW,
5 AND WATCH WHAT HAPPENS WHEN THE WORD MESSAGE IS MISS TYPED.

6 IF WE COULD PLAY THAT.

7 (A VIDEOTAPE WAS PLAYED IN OPEN COURT OFF THE RECORD.)

8 MR. QUINN: IT WAS AUTOMATICALLY CORRECTED AFTER
9 EVERY SINGLE LETTER. YOU END UP AUTOMATICALLY WITH THE
10 CORRECTION UP ABOVE, MESSAGE.

11 NOW, LET'S COMPARE THAT TO THE INFRINGING SWIPE KEYBOARD.
12 THIS IS SLIDE 65. ON THE LEFT-HAND SIDE YOU HAVE THAT
13 NON-INFRINGING SAMSUNG DART KEYBOARD, WHICH WE JUST DISCUSSED.

14 ON THE RIGHT-HAND SIDE YOU HAVE THE NUANCE SWIPE KEYBOARD
15 WHICH HAS BEEN FOUND TO INFRINGE. IT PRACTICES APPLE'S PATENT.

16 YOU CAN SEE THEY BOTH LOOK SIMILAR. WE'RE NOT TALKING
17 ABOUT BIG DIFFERENCES.

18 THEY BOTH HAVE A TEXT AREA THAT YOU CAN SEE ABOVE AND A
19 SUGGESTIONS AREA, A SUGGESTIONS BAR BELOW.

20 IF WE COULD GO TO SLIDE 67.

21 YOU CAN SEE THEY BOTH HAVE THIS SUGGESTION BAR.

22 AND ON BOTH OF THEM, IT WILL TYPE, YOU KNOW, MESSAF, THE
23 MISSPELLING ON THE LEFT-HAND SIDE, AND THEN THERE WILL BE SOME
24 SUGGESTIONS AND IF YOU WANT TO TAKE ONE OF THOSE SUGGESTIONS,
25 YOU CAN JUST TAP ON IT. BOTH OF THEM WORK IDENTICALLY, THE

1 NON-INFRINGEMENT SAMSUNG DART KEYBOARD AND THE KEYBOARD THAT
2 PRACTICES -- THAT INFRINGES APPLE'S PATENT.

3 HERE IS THE INFRINGING SWIPE KEYBOARD, THE ONE THAT WAS ON
4 THE RIGHT, IN ACTION. I WANT TO SHOW THAT TO YOU. YOU SEE
5 THAT AUTOMATICALLY CORRECTS. BUT THE WAY IT WORKS IS DIFFERENT
6 ON APPLE'S KEYBOARD. INSTEAD OF CONTINUOUSLY CORRECTING AS
7 YOU'RE TYPING, IT'S NOT UNTIL YOU FINISH AND HIT WHAT'S CALLED
8 A DELIMITER, EITHER A PERIOD OR A COLON OR A SPACE BAR, THAT IT
9 POPS UP WHAT THE SUGGESTED WORD IS. YOU WOULDN'T KNOW WHAT'S
10 GOING TO POP UP UNLESS YOU LOOK DOWN. THE SUGGESTED WORD IS
11 DOWN BLOW IN THAT SPACE BAR. YOU WON'T KNOW WHAT'S GOING TO
12 COME UP WITHOUT ACTUALLY LOOKING DOWN.

13 AND SOME PEOPLE MIGHT SAY THAT THAT, YOU KNOW, APPLE, THAT
14 PATENT, THAT WAY THAT MAKES YOU HAVE TO LOOK DOWN TO SEE IF
15 WHAT YOU REALLY INTENDED TO TYPE IS DOWN THERE IS NOT AS GOOD,
16 IT'S INCONVENIENT, YOU HAVE TO LOOK DOWN.

17 THE WAY YOU KNOW THAT APPLE THINKS THAT'S A NUISANCE,
18 BECAUSE IN THE IPHONE, THEY DON'T USE THAT PATENT, NEVER HAVE.
19 HAVE NEVER USED IT. THE IPHONE DOES IT DIFFERENTLY.

20 LET'S TAKE A LOOK AT SLIDE 72.

21 THE IPHONE, THE WORD SUGGESTION IS FLOATED IN A BOAT UP IN
22 THE TEXT AREA SO THAT YOU KNOW BY LOOKING UP THERE, YOU DON'T
23 HAVE TO LOOK DOWN, YOU KNOW WHAT'S GOING TO HAPPEN IF YOU HIT
24 THE SPACE BAR OR THE DELIMITER.

25 SO WHAT ARE THE DAMAGES THAT APPLE SEEKS FOR USE OF ITS

1 OWN PARTICULAR FORM OF WORD CORRECTION, WHICH IT DOESN'T EVEN
2 USE, AND WHICH SOME PEOPLE MIGHT CONSIDER INFERIOR?

3 ACCORDING TO DR. HAUSER'S SURVEY, WHAT SHOULD SAMSUNG PAY?
4 \$206.4 MILLION OF THE 2 BILLION-PLUS DOLLARS.

5 OF THE -- DR. HAUSER'S STUDY SAID, THAT CHART WE LOOKED AT
6 BEFORE, SUPPOSEDLY HIS CONCLUSION IS PEOPLE WOULD PAY \$102 MORE
7 PER PHONE TO HAVE THIS FEATURE WHERE YOU HAVE TO LOOK DOWN AND
8 MAKE YOUR CHOICE, WHICH APPLE DOESN'T EVEN USE.

9 HOW DID HE ARRIVE AT THAT NUMBER? WELL, DR. HAUSER'S
10 SURVEY WAS SERIOUSLY FLAWED. REMEMBER, I TOLD YOU, IT'S ALL
11 ABOUT THE DESCRIPTIONS THEY'RE GIVING. THEY DON'T GET ANY
12 PHONES. THEY'RE JUST GETTING DESCRIPTIONS.

13 AND LET ME TELL YOU WHAT THEY WERE TOLD ABOUT THESE WORD
14 SUGGESTION FEATURES, AND THIS IS WHAT THEY WERE TOLD ABOUT
15 APPLE'S PATENTED METHOD. YOU'LL SEE IT UP HERE. THIS IS WHAT
16 THE SURVEY PARTICIPANTS WERE PRESENTED WITH. IT SAYS AT THE
17 TOP AUTOMATIC WORD CORRECTION.

18 NOW, YOU KNOW THAT'S NOT THE TITLE OF THEIR PATENT. WE
19 JUST LOOKED AT THAT. IF WE GO BACK TO SLIDE 60, THEIR PATENT
20 IS "A METHOD, SYSTEM, AND GRAPHICAL USER INTERFACE FOR
21 PROVIDING WORD RECOMMENDATIONS."

22 BUT PARTICIPANTS AREN'T TOLD THAT WHAT THEY'RE BEING
23 PRESENTED HERE, THE DESCRIPTION IS JUST OF A METHOD. THEY'RE
24 TOLD THAT THE FEATURE IS AUTOMATIC WORD CORRECTION, PERIOD, IN
25 BIG BOLD LETTERS ON A PICTURE, AN ICON UP HERE, TWO PIECES OF

1 PAPER.

2 THE ONE IN THE BACK SAYS X, MISTAKE, BEING REPLACED WITH
3 ANOTHER PIECE OF PAPER, CHECK, CORRECT.

4 NO METHOD. ONLY AUTOMATIC WORD CORRECTION. ONLY WRONG
5 SPELLING MADE RIGHT.

6 THAT ICON IS THE SYMBOL FOR THIS PATENT CLAIM IN
7 DR. HAUSER'S TEST. THAT ICON TELLS SURVEY PARTICIPANTS THAT
8 THEIR ONLY CHOICE -- YOU KNOW, THE CHOICE THAT YOU'RE MAKING,
9 YOU'RE TRYING TO VALUE WHAT THE DIFFERENCE IS BETWEEN SAMSUNG,
10 THE APPLE PATENT AND WHAT WOULD OTHERWISE HAVE TO DO, THEY'RE
11 TOLD THE ONLY CHOICE IS BETWEEN WORD CORRECTION AND NO WORD
12 CORRECTION.

13 NOW, CLEARLY THE DIFFERENCE BETWEEN HAVING AUTOMATIC WORD
14 CORRECTION IS VERY DIFFERENT FROM THE VALUE OF HAVING IT BY ONE
15 METHOD RATHER THAN ANOTHER. THE DIFFERENCE BETWEEN YOU EITHER
16 HAVE IT OR YOU DON'T OR YOU HAVE IT BY ONE METHOD OR YOU HAVE
17 IT BY ANOTHER, THERE'S A BIG DIFFERENCE.

18 THERE IS NO SUBTLETY IN DR. HAUSER'S DESCRIPTION.

19 OF COURSE APPLE HAS NO RIGHT TO A MONOPOLY UNDER ITS
20 PATENT CLAIM TO AUTOMATIC WORD CORRECTION BECAUSE, AS YOU HAVE
21 SEEN FROM SAMSUNG'S NON-INFRINGEMENT DART KEYBOARD, YOU ALREADY
22 KNOW THERE'S AT LEAST ONE NON-INFRINGEMENT ALTERNATIVE THAT DOES
23 PROVIDE AUTOMATIC WORD CORRECTION, AND SOME WOULD SAY IT'S
24 BETTER. YOU DON'T HAVE TO LOOK DOWN. THE CORRECTION, IT
25 HAPPENS WHILE YOU ARE TYPING IN THE TEXT AREA.

1 SAMSUNG HAD THAT ON ITS PHONES BEFORE APPLE'S PATENT
2 ISSUED.

3 SAMSUNG DOES NOT -- WELL, APPLE DOES NOT OWN AUTOMATIC
4 WORD CORRECTION. APPLE DOESN'T INVENT IT. IT HAS NO RIGHT TO
5 BE PAID FOR IT.

6 THE ASSERTION THAT APPLE OWNS AUTOMATIC WORD CORRECTION IS
7 UNTRUE, AND THAT UNTRUTH INFECTED DR. HAUSER'S SURVEY.

8 AND, AGAIN, THAT SURVEY IS THE ONLY BASIS IN THIS LAWSUIT
9 THAT'S GOING TO BE PRESENTED TO YOU FOR THOSE VERY, VERY LARGE
10 NUMBERS.

11 THIS STUDY IS THE ONLY EVIDENCE OF CONSUMERS' PREFERENCES
12 AND FEATURE VALUE IN THIS LAWSUIT FOR CELL PHONES, FOR TABLETS,
13 FOR EVERY SINGLE CLAIM, ALL FIVE OF THEM, IT ALL COMES BACK TO
14 DR. HAUSER.

15 THIS WASN'T JUST AN INSTANCE OF A CAREFULLY -- CARELESSLY
16 CHOSEN ICON. IT WAS DELIBERATELY AND CAREFULLY DESIGNED TO
17 MISLEAD YOU.

18 HERE'S THE PART OF THE EXPLANATION THAT WAS GIVEN TO TEST
19 SUBJECTS THAT WAS MEANT TO DESCRIBE WHAT THE ALTERNATIVE WOULD
20 BE, IF YOU DON'T USE APPLE'S PATENTED CLAIM, WHAT'S THE
21 ALTERNATIVE?

22 AND WHAT PEOPLE ARE TOLD, YOU CAN SEE IT HERE, "WITHOUT
23 THIS FEATURE, PRESSING SPACE OR A PERIOD WOULD RETAIN YOUR
24 ORIGINAL TEXT," AND WHAT HE'S TOLD THEM HERE IS IF YOU'RE
25 TRYING TO TYPE BIRTHDAY AND INSTEAD YOU TYPE BIRFDAY WITH AN F,

1 IT TELLS THEM "WITHOUT THIS FEATURE, PRESSING SPACE OR A PERIOD
2 WOULD RETAIN YOUR ORIGINAL TEXT, BIRFDAY. IF YOU WANT TO
3 REPLACE YOUR ORIGINAL TEXT, YOU NEED TO SELECT THE SUGGESTED
4 BIRTHDAY YOURSELF. YOU WOULD HAVE TO GO DOWN AND SELECT IT."

5 THAT'S SIMPLY WRONG. APPLE MADE THAT UP. YOU KNOW THAT'S
6 WRONG. YOU'VE SEEN THE DART KEYBOARD. IT AUTOMATICALLY
7 CORRECTS IN THE SCREEN.

8 IT'S -- THAT'S HOW APPLE COMES UP WITH THESE NUMBERS THAT
9 THIS IS WORTH \$206 MILLION.

10 APPLE MAKES A VERY, VERY SERIOUS DAMAGES CLAIM, BUT THEY
11 DIDN'T GO ABOUT STUDYING DAMAGES IN ALL SERIOUSNESS. IN FACT,
12 DR. HAUSER'S STUDY, YOU WILL SEE, IS COMPLETELY REMOVED FROM
13 REALITY.

14 LET ME GIVE YOU ANOTHER EXAMPLE OF AN UNTRUTHFUL
15 DESCRIPTION OF ANOTHER ONE OF THESE PATENTED FEATURES THAT THEY
16 GAVE TO SURVEY PARTICIPANTS, WHICH IS THE WHOLE BASIS FOR THEIR
17 CLAIM THAT FOLKS PREFERRED -- YOU KNOW, WOULD BUY FEWER SAMSUNG
18 PHONES AND WOULD BUY MORE APPLE PHONES.

19 AND THIS IS THE BACKGROUND SYNCING CLAIM. THIS IS THE
20 DESCRIPTION THAT PEOPLE WERE GIVEN. AND AT THE TOP IT
21 DESCRIBES THE APPLE PATENT, AND THEN IT DESCRIBES WHAT THE
22 ALTERNATIVE, WHERE IF YOU DON'T PRACTICE THE APPLE PATENT, THIS
23 IS WHAT WOULD HAPPEN TO YOU.

24 "WITHOUT THIS FEATURE, YOU WOULD HAVE TO WAIT TO USE THE
25 APP, FOR EXAMPLE, THE CONTACTS APP, WHILE THE DATA FOR THE APP

1 IS SYNCHRONIZING WITH A REMOTE COMPUTER, AND THAT WAIT MAY BE
2 LONG OR SHORT."

3 SO IN OTHER WORDS, THE SURVEY PARTICIPANTS ARE TOLD, "YOU
4 EITHER USE APPLE'S PATENT" WHICH, AGAIN, THIS IS ANOTHER ONE,
5 APPLE DOESN'T USE THIS, IT'S NOT IN ANY IPHONE, NEVER HAS BEEN,
6 THEY'RE TOLD, "YOU EITHER USE APPLE'S PATENT, OR YOUR PHONE
7 WILL FREEZE FOR A PERIOD OF TIME, AND THAT MAY BE A LITTLE
8 PERIOD OF TIME, OR IT MAY BE A LONG PERIOD OF TIME."

9 AND THAT IS ALSO, FRANKLY, NOT TRUE. APPLE DID NOT CREATE
10 THE ONLY WAY TO SYNC DATA WITHOUT THE DEVICE FREEZING. THIS IS
11 ANOTHER EXAMPLE OF APPLE EXAGGERATING THE SCOPE OF ITS PATENTED
12 CLAIMS.

13 THAT SYNCING, THAT ABILITY, HAD BEEN DEVELOPED USING
14 DIFFERENT PROCESSES BY OTHER INVENTORS AT LEAST SEVEN YEARS
15 BEFORE APPLE'S PATENT ISSUED. I'LL SHOW YOU THOSE OTHER
16 PROCESSES IN A LITTLE BIT.

17 SO WHEN MR. HAUSER ASKED THEM, YOU KNOW, THE PUNCH LINE IS
18 AFTER THEY'RE GIVEN THESE CHOICES, HE ASKED THEM, HOW IMPORTANT
19 IS THAT FEATURE THAT KEEPS YOUR PHONE FROM FREEZING UP? OF
20 COURSE WHAT DID THEY SAY, THEY SAID THAT WAS IMPORTANT. THAT
21 WAS BASED ON A MISREPRESENTATION BECAUSE PHONES CAN USE THOSE
22 OTHER PROCESSES THAT APPLE DOESN'T OWN. APPLE DOESN'T OWN
23 EVERYTHING WHEN IT COMES TO SYNCING OR WORD CORRECTION OR ANY
24 OF THESE OTHER FEATURES.

25 THE DESCRIPTION ON SYNCING IS WRONG IN ANOTHER RESPECT.

1 ALL THE PARTIES AGREE THAT APPLE'S PATENT REQUIRES THAT YOU
2 HAVE THREE SYNCING COMPONENTS IN THE BACKGROUND. AND IT'S NOT
3 SO -- IN OTHER WORDS, IT'S NOT JUST ABOUT FREEZING AND SYNCING
4 GENERALLY. THIS PATENT IS A VERY SPECIFIC ONE. IT REQUIRES
5 THREE SYNCING COMPONENTS.

6 DR. HAUSER'S DESCRIPTION TO THE SURVEY PARTICIPANTS DIDN'T
7 MENTION THIS AT ALL, AND, IN FACT, THE ANDROID SOFTWARE PROCESS
8 SAMSUNG USES AND APPLE ACCUSES HERE CONTAINS ONLY TWO
9 COMPONENTS THAT ACTUALLY ARE DOING THE SYNCING.

10 WITHOUT A TRUTHFUL DESCRIPTION OF APPLE'S CLAIMS AND WHAT
11 THE ALTERNATIVES WOULD BE, THE SURVEY, DR. HAUSER'S SURVEY IS
12 WORTHLESS.

13 AS I TOLD YOU, CLEARLY THESE DESCRIPTIONS ARE REALLY
14 IMPORTANT SINCE THAT'S WHAT THE SURVEY PARTICIPANTS ARE BASING
15 ALL THEIR JUDGMENTS ON ABOUT THEIR PREFERENCES AND WHAT'S THIS
16 WORTH.

17 SO YOU MIGHT ASK, WHO WROTE THESE DESCRIPTIONS THAT WERE
18 SO IMPORTANT AND CENTRAL TO THIS SURVEY? IT WASN'T DR. HAUSER.
19 IT WAS APPLE'S LAWYERS.

20 AND GUESS WHAT? THEY WEREN'T EXACTLY EVEN-HANDED.

21 LET'S LOOK AT WHAT DR. HAUSER SAID IN HIS REPORT. IN THE
22 FIRST SENTENCE THERE HE ACKNOWLEDGES THAT TO GET RELIABLE
23 RESULTS FROM THE SURVEY, YOU HAVE TO HAVE CLEAR DESCRIPTIONS.

24 THEN HE GOES ON TO ADMIT THAT THEY WERE "PROVIDED TO ME BY
25 COUNSEL."

1 AND HE SAID "I HAVE NOT REVIEWED OR INTERPRETED THE PATENT
2 CLAIMS MYSELF AND DO NOT HAVE A PROFESSIONAL OPINION ON THAT
3 MATTER."

4 HE'S WASHING HIS HANDS OF IT. HE'S NOT TAKING ANY
5 RESPONSIBILITY FOR THIS.

6 SO HE GIVES -- WHAT HAPPENS WITH THESE SURVEY RESULTS?
7 THEY'RE GIVEN TO ANOTHER APPLE EXPERT, DR. VELLTURO, AND LET'S
8 JUST TALK FOR A MOMENT ABOUT DR. VELLTURO.

9 YOU KNOW, UNLIKE MANY EXPERTS YOU'RE GOING TO SEE WHO ARE
10 FACULTY MEMBERS AT UNIVERSITIES, DR. VELLTURO IS NOT A MEMBER
11 OF A FACULTY ANYWHERE. HE BASICALLY TESTIFIES FOR A LIVING.
12 HE'S BASICALLY APPLE'S HOUSE PAID EXPERT WITNESS.

13 HE SAYS HE CANNOT REMEMBER EXACTLY HOW MANY TIMES HE'S
14 BEEN HIRED BY APPLE TO COME INTO COURTROOMS AND TESTIFY AND HE
15 THINKS IT'S MAYBE 10 TO 12 TIMES.

16 BUT HE TOOK DR. HAUSER'S SURVEY RESULTS AND RAN SOME
17 NUMBERS, AND HE SAID THAT SYNCING COMPONENT CLAIM WHERE PEOPLE
18 WERE TOLD YOU EITHER USE THE APPLE, YOU KNOW, PATENT OR, YOU
19 KNOW, YOU'RE GOING TO HAVE TO WAIT AND THE WAIT COULD BE LONG
20 OR SHORT, HE TOOK THE RESULTS OF THE SURVEY AND HE SAID, WELL,
21 THAT SYNCING CLAIM IS WORTH \$724.9 MILLION.

22 SO THAT'S WHERE PART OF THAT OVER 2 BILLION THEY'RE
23 SEEKING COMES FROM THAT CLAIM. AND ALL THE STEPS LEADING TO
24 THAT NUMBER COLLAPSE BECAUSE THEY'RE ALL BASED ON DESCRIPTIONS
25 WHICH ARE COMPLETELY UNFAIR AND INACCURATE.

1 WE HAVE -- WE'VE RETAINED AN EXPERT, DR. DAVID REIBSTEIN,
2 WHO'S A PROFESSOR AT THE WARD SCHOOL OF BUSINESS AT THE
3 UNIVERSITY OF PENNSYLVANIA. HE'S AN EXPERT IN THESE TYPES OF
4 SURVEY, THEY'RE CALLED CONJOINT SURVEYS, AND HE SAYS IT'S
5 COMPLETELY INAPPROPRIATE TO USE THIS TYPE OF SURVEY, A CONJOINT
6 SURVEY, FOR A COMPLEX PRODUCT WHICH HAS LOTS AND LOTS OF
7 FEATURES, THAT IT'S JUST A -- THEY SHOULDN'T HAVE USED IT IN
8 THE FIRST PLACE.

9 HE HAD A REAL QUESTION: DID THE SURVEY PARTICIPANTS
10 ACTUALLY UNDERSTAND WHAT THEY WERE BEING TOLD, UNDERSTAND THESE
11 DESCRIPTIONS?

12 SO HE DID HIS OWN STUDY. HE RECRUITED SOME OTHER PEOPLE,
13 JUST LIKE DR. HAUSER HAD, WHO HAD SAMSUNG PHONES. HE SHOWED
14 THEM THE SAME VIDEOS, WE HAD THEM, SHOWED THEM THE SAME
15 DESCRIPTIONS, AND, YOU KNOW, HAD THEM TAKE THE SAME TEST.

16 AND AFTERWARDS HE ASKED THEM, DID YOU UNDERSTAND? DID YOU
17 UNDERSTAND THE DESCRIPTIONS IN THE VIDEOS? THEY ALL SAID, YES.

18 BUT THEN HE INTERVIEWED THEM AND IT TURNED OUT THEY DIDN'T
19 UNDERSTAND AT ALL.

20 MANY OF THE PARTICIPANTS THOUGHT THAT WHEN IT DESCRIBED
21 WORD CORRECTION, THEY THOUGHT THAT MEANT THE CHOICE WAS BETWEEN
22 APPLE'S PATENT CLAIM AND HAVING TO GO BACK AND COMPLETELY
23 RETYPE THE MISSPELLING.

24 SOME THOUGHT THE CHOICE WAS BETWEEN USING APPLE'S THREE
25 PATENT SYNC CLAIM AND NOT HAVING ANY SYNCING AT ALL AND HAVING

1 TO GO TO ANOTHER DEVICE AND RE-ENTER THE INFORMATION.

2 SO THERE'S A REAL QUESTION. I THINK IT'LL BE IN YOUR
3 MINDS WHEN YOU HEAR THE EVIDENCE AS TO WHETHER PEOPLE REALLY
4 UNDERSTOOD THIS AT ALL.

5 I TOLD YOU BEFORE, APPLE ON ITS OWN DOES SURVEYS AS TO WHY
6 PEOPLE BUY PHONES.

7 IF WE COULD LOOK AT SLIDE 50.

8 THIS IS AN INTERNAL APPLE STUDY, AND IF YOU LOOK AT THE
9 U.S. ON THE LEFT-HAND SIDE, THE WHOLE THEORY OF APPLE'S CASE
10 HERE IS PEOPLE BUY SAMSUNG PHONES BECAUSE OF THESE FIVE
11 FEATURES AND THEY'RE SO IMPORTANT.

12 WHEN IT COMES TO IPHONES, PEOPLE WHO WANT AN IPHONE MODEL
13 OR A SPECIFIC FEATURE, IT'S ONLY 16 PERCENT OF THE PEOPLE WHO
14 BUY PHONES ACCORDING TO APPLE'S OWN DATA.

15 AND THEN IN THEIR DATA, THEIR SURVEY, THEY DRILL DOWN IN
16 THE 16 PERCENT TO SEE WHAT IS THE FEATURE THAT THEY'RE MOST
17 INTERESTED IN. IS IT OUR PHONE WITH WORD CORRECTION? IS IT
18 SYNCING, OR WHAT IS IT?

19 IF WE CAN LOOK AT SLIDE 51.

20 THOSE 16 PERCENT, AS I'VE BEEN TELLING YOU, THEY'RE
21 INTERESTED IN THINGS LIKE BIG FEATURES, WHAT'S THE WEIGHT, THE
22 DISPLAY, THE THINNESS, IS THERE LTE, WHAT'S THE BATTERY LIFE?

23 APPLE KNOWS THESE ARE THE KINDS OF THINGS THAT DRIVE SALES
24 OF PHONES.

25 ANOTHER EXAMPLE OF AN IMPORTANT PHONE FEATURE IS THE MAPS

1 APPLICATION. IN THE FALL OF 2012, APPLE HAD A BIG PROBLEM WITH
2 ITS MAPS APPLICATION. THEY USED TO HAVE GOOGLE MAPS AND THEY
3 DEVELOPED THEIR OWN MAP, APPLE MAPS FEATURE AND THEY PUT IT IN
4 THE PHONE AND IT WAS A DISASTER. I MEAN, IT SENT PEOPLE IN
5 CIRCLES TO DEAD ENDS. POLICE IN AUSTRALIA WARNED THAT THE
6 APPLE MAPS FEATURE COULD KILL BECAUSE IT WOULD SEND PEOPLE INTO
7 THE BARREN OUTBACK WHERE THERE WAS NO WATER.

8 THE PR FALLOUT FROM THAT WAS SO BAD THAT APPLE HAD TO
9 APOLOGIZE TO CONSUMERS, AND TIM COOK WROTE A LETTER TO
10 CONSUMERS ASKING FORGIVENESS AND SUGGESTED THAT THEY ALL SOLVE
11 THE PROBLEM BY REINSTALLING GOOGLE MAPS.

12 BUT YET THAT PHONE THAT HAD THAT APPLE MAPS FEATURE, THE
13 IPHONE 5, WAS THE HIGHEST SELLING IPHONE EVER.

14 WHAT DOES THAT SHOW US? A PHONE WITHOUT A WORKING MAPS
15 APPLICATION CAN SELL. A PHONE WITHOUT THESE FIVE SMALL
16 FEATURES, THAT WOULD SELL, TOO. THESE AREN'T THE THINGS THAT
17 DRIVE SALES.

18 I NOW WANT TO TURN TO APPLE'S INFRINGEMENT CLAIMS. WE
19 WILL SHOW YOU THAT SAMSUNG DID NOT USE OR INFRINGE FOUR OF THE
20 CLAIMS AND THAT, IN FACT, IN ANY EVENT ALL FIVE ARE INVALID.
21 THEY SHOULDN'T HAVE BEEN ISSUED IN THE FIRST PLACE. THERE WERE
22 OTHER PEOPLE WHO THOUGHT OF THE IDEAS.

23 LET'S BEGIN WITH THE '414, THE BACKGROUND SYNCING. WE'VE
24 SPOKEN ABOUT THIS SOME ALREADY.

25 AS I SAID, THIS REQUIRES THAT YOU HAVE THREE SEPARATE SYNC

1 COMPONENTS THAT ARE CONFIGURED TO DO SYNC.

2 YOU WILL HEAR IN THIS TRIAL FROM DR. CHASE, OUR EXPERT
3 WITNESS, AND A GOOGLE ENGINEER PAUL WESTBROOK, WHO WAS INVOLVED
4 IN DEVELOPING THIS, WHO WILL TELL YOU THAT ANDROID DOES THIS
5 DIFFERENTLY, DOES NOT USE THIS THREE SYNC PROCESS. IT HAD BEEN
6 DONE BEFORE. IT WAS DONE AT WINDOWS MOBILE. THERE'S A MAN BY
7 THE NAME OF GARY HALL, WHO YOU WILL HEAR FROM, WHO'S A WINDOWS
8 DEVELOPER WHO CALLED BACKGROUND SYNCING A DESIGN PILLAR OF
9 WINDOWS MOBILE.

10 AND YOU WILL SEE THAT HE -- WINDOWS, MICROSOFT HAD THE
11 ABILITY TO SYNC IN BACKGROUND, AND IT WOULDN'T FREEZE UP. AND
12 THAT WAS ALL BEFORE APPLE'S PATENT.

13 AND THEY ALSO SYNCED WITH THREE SYNC COMPONENTS IN THE
14 BACKGROUND, JUST LIKE APPLE CLAIMS TO DO.

15 YOU KNOW, THE PATENT AND TRADEMARK OFFICE, YES, THEY
16 ISSUED A PATENT ON THIS. BUT THEY DIDN'T HAVE THIS INFORMATION
17 WHEN IT WAS ISSUED. THEY DIDN'T HAVE THE INFORMATION ABOUT THE
18 WINDOWS MOBILE IN FRONT OF THEM WHEN THEY ISSUED THIS PATENT.

19 YOU'LL HEAR THAT ANOTHER GREAT COMPANY WHO WAS DEVELOPING
20 BACKGROUND SYNC BEFORE APPLE EVEN FILED FOR ITS PATENT, AND
21 THAT COMPANY WAS USING BACKGROUND SYNC BEFORE APPLE'S PATENT
22 EVEN ISSUED, AND THAT COMPANY IS GOOGLE. IT JUST STARTED
23 DEVELOPING A SYNCING FEATURE BEFORE THE IPHONE EVER HIT THE
24 MARKET.

25 AS A CLOUD COMPANY, GOOGLE IS WELL AHEAD OF APPLE IN

1 WIRELESS SYNCING. REMEMBER, YOU SAW THAT IN THE STEVE JOBS
2 E-MAIL. HE SAID CATCH UP IN SYNCING.

3 AND, YOU KNOW, GOOGLE HAD THE ABILITY FROM THE BEGINNING,
4 AS A CLOUD COMPANY, TO SYNC YOUR CONTACTS AND WIRELESS -- YOUR
5 CONTACTS AND YOUR CALENDAR WIRELESSLY IN THE FIRST ANDROID
6 PHONE.

7 THAT'S SOMETHING YOU COULDN'T DO IN THE FIRST IPHONE. YOU
8 HAD TO PLUG IT INTO A COMPUTER TO SYNC UNTIL IOS 5 IN 2011.

9 THE '647 PATENT, THE ANALYZER SERVER PATENT, SOMETIMES
10 CALLED QUICK LINKS OR LINKS TO STRUCTURES, THIS IS THE PATENT
11 THAT, YOU KNOW, YOU CAN -- IT WILL HIGHLIGHT A PHONE NUMBER OR
12 AN E-MAIL ADDRESS AND YOU CAN TAP ON IT AND IT'LL DO -- YOU
13 KNOW, EXECUTE AN ACTION.

14 THIS DOES NOT COVER EVERY WAY OF DOING A CLICKABLE LINK.
15 THE SIMPLE ABILITY TO CLICK ON A PHONE NUMBER AND MAKE A CALL,
16 OR CLICK ON AN E-MAIL ADDRESS AND SEND AN E-MAIL, THAT HAS BEEN
17 AROUND FOR A LONG TIME. APPLE DIDN'T INVENT THIS. THIS ISN'T
18 SOMETHING THAT APPLE OWNS.

19 GOOGLE DESIGNED THE ANDROID SOFTWARE THAT RUNS ON THE
20 BACKGROUND -- IN THE BACKGROUND DIFFERENTLY FOR ITS ANALYZER
21 SERVER. YOU'LL HEAR THE EVIDENCE THAT GOOGLE -- THAT THE
22 PATENT THAT APPLE HAS ON THIS PARTICULAR FEATURE REQUIRES
23 SOMETHING CALLED AN ANALYZER SERVER, AND I WON'T GO INTO THE
24 DETAILS ABOUT WHAT THAT'S ABOUT NOW, BUT IF YOU ONLY REMEMBER
25 ONE THING I SAY ABOUT THIS PATENT, IT'S ANALYZER SERVER.

1 AND THE APPLE PATENT REQUIRES THAT THERE BE AN ANALYZER
2 SERVER TO ACCOMPLISH THIS IN THE SOFTWARE. AND WHEN YOU SEE
3 WHAT GOOGLE DOES, WHAT ANDROID DOES, YOU'LL SEE THAT THERE IS
4 NO ANALYZER SERVER.

5 APPLE TRIES TO SAY IT'S SOMETHING ELSE, THEY KNOW THERE
6 NEEDS TO BE AN ANALYZER SERVER. SO APPLE TRIES TO SAY IT'S
7 SOMETHING ELSE. I THINK THEY CALL IT A SOFTWARE LIBRARY. THEY
8 SAY, WELL, THAT'S REALLY AN ANALYZER SERVER. BUT YOU'RE GOING
9 TO SEE THAT THAT'S SOMETHING VERY, VERY DIFFERENT. IN FACT,
10 THEIR OWN INVENTOR WILL TELL YOU THAT SOFTWARE LIBRARIES ARE
11 VERY DIFFERENT THAN AN ANALYZER SERVER.

12 YOU'LL ALSO HEAR IN THIS PATENT THAT THERE WAS PRIOR ART,
13 THAT IT HAD BEEN DONE BEFORE. THERE'S SOMETHING CALLED
14 EMBEDDED BUTTONS THAT HAD BEEN INVENTED AT A VERY FAMOUS
15 INSTITUTION HERE IN PALO ALTO CALLED XEROX PARK, PALO ALTO
16 RESEARCH CENTER IN 1991 WHERE THEY -- THIS SAME TECHNOLOGY
17 EXISTED. IT'S NOT NEW. IT'S NOT A PATENT THAT EVER SHOULD
18 HAVE BEEN ISSUED.

19 THE '721, THE SLIDE TO UNLOCK, YOU KNOW, YOU WILL SEE THAT
20 SAMSUNG, ANDROID HAVE USED LOTS OF DIFFERENT LOCK INTERFACES,
21 VERY DIFFERENT KINDS OF MECHANISMS.

22 ONE IS CALLED THE PUZZLE DESIGN UNLOCK INTERFACE.

23 I MEAN, THE WAY IT WORKS, THE PIECES START UP IN THE
24 CORNER AND YOU CAN MOVE THIS PIECE, THIS PIECE HERE, YOU CAN
25 MOVE IT ALL AROUND. IT'S NOT LIKE THE SLIDE TO UNLOCK WHERE

1 THERE'S A TRACK AND YOU GO FROM THIS POINT TO THIS POINT ALONG
2 THE TRACK.

3 THIS PUZZLE PIECE, YOU CAN MOVE IT WITH YOUR FINGER ALL
4 AROUND. IT UNLOCKS WHEN YOU GO INTO THE HOLE THERE. THIS IS
5 VERY DIFFERENT. THIS IS NOT AN EFFORT TO COPY THE IPHONE.
6 IT'S AN EFFORT TO COME UP WITH SOMETHING PLAYFUL, FUN. THE
7 FOLKS AT SAMSUNG WERE TRYING TO DISTINGUISH THEMSELVES.

8 ANOTHER UNLOCK SCREEN THAT SAMSUNG USES IS A GALAXY 3
9 RIPPLE WHICH YOU WILL SEE. UNFORTUNATELY, YOU CAN'T REALLY --
10 THIS DOESN'T REPRODUCE IN A PHOTOGRAPH, BUT IT'S A REALLY COOL
11 DESIGN WHERE IF YOU PUT YOUR FINGER ON THE SCREEN AND MOVE IT,
12 IT'S LIKE WATER RIPPLES ACROSS THE FACE OF THE SCREEN AND YOU
13 CAN MOVE UP, DOWN, ONE WAY OR ANOTHER, AND IT'S LIKE A LITTLE
14 WAVE OF WATER GOING ACROSS THE STREET.

15 NO SLIDE TO UNLOCK, YOU KNOW, APPLE'S SLIDE TO UNLOCK.
16 THEY DON'T ACCUSE THAT. THIS IS A BEST SELLING, YOU KNOW, THE
17 GS III, GALAXY 3, BEST SELLING PHONES. WE'RE SELLING LOTS OF
18 THESE PHONES WITHOUT USING ANY APPLE SLIDE TO UNLOCK FEATURE.

19 AND THEN YOU'RE GOING TO SEE THAT APPLE ITSELF HAS MOVED
20 AWAY FROM THAT ORIGINAL SLIDE TO UNLOCK DESIGN IN THE LATEST
21 IOS 7 SOFTWARE, YOU CAN GO FROM ANYWHERE ON THE LEFT-HAND SIDE
22 OF THE SCREEN TO THE RIGHT-HAND SIDE OF THE SCREEN, ANYWHERE AT
23 ANY POINT. THERE'S MUCH MORE FREEDOM OF MOVEMENT. YOU DON'T
24 HAVE THAT LITTLE CHANNEL DOWN AT THE BOTTOM.

25 THE WORDS SLIDE TO UNLOCK ARE STILL ON THE PHONE, BUT

1 THEY'RE NOT CLAIMING THEY OWN THE WORDS. YOU CAN SEE THAT
2 THEY'VE GONE IN A DIFFERENT DIRECTION ALTOGETHER.

3 IS THIS SOMETHING THAT'S REALLY WORTH MILLIONS AND
4 MILLIONS OF DOLLARS? IS THIS WHY PEOPLE BUY SMARTPHONES?

5 THOSE ARE SOME OF THE DECISIONS THAT YOU'RE GOING -- THAT
6 YOU WILL HAVE TO DECIDE.

7 WE'LL ALSO SHOW YOU OTHER PRIOR ART. YOU KNOW, THERE HAVE
8 BEEN SLIDE TO UNLOCK MECHANISMS BEFORE. IT'S BEEN DONE BEFORE.

9 WHAT THEY CALL UNIVERSAL SEARCH, THIS INVOLVES THE -- THE
10 APPLE PATENT ON UNIVERSAL SEARCH INVOLVES A VERY SPECIFIC WAY
11 OF COMBINING LOCAL SEARCH RESULTS THAT ARE ON THE PHONE FROM,
12 LIKE, YOUR CONTACTS OR YOUR CALENDAR AND THINGS LIKE THAT WITH
13 RESULTS THAT COME FROM THE INTERNET.

14 NOW, I THINK IT'S FAIR TO SAY GOOGLE KNOWS SEARCH. AND
15 THE ENGINEERS AT GOOGLE DON'T NEED TO TURN TO APPLE, YOU KNOW,
16 WHEN THEY'RE BUILDING THEIR ANDROID SOFTWARE TO FIGURE OUT HOW
17 TO DO SEARCH ON A PHONE. THEY'VE BEEN DOING SEARCH AT GOOGLE
18 SINCE 1997. THEY'VE BEEN DOING, ON THE DESKTOP, THEY'VE BEEN
19 DOING LOCAL SEARCH ON THE DESKTOP DEVICE CLEAR BACK TO 2004.

20 THE FUNCTIONS THAT APPLE IS CHALLENGING HERE IN ANDROID ON
21 PHONES, THEY WERE ADDED TO ANDROID AND SAMSUNG PHONES IN 2009.

22 BUT, AGAIN, THIS SEARCH CAPABILITY THAT, YOU KNOW, THEY
23 CLAIM TO HAVE A PATENT ON, IT'S NOT SOMETHING THAT THEY HAVE
24 EVER USED. IT'S NEVER BEEN DONE ON THE IPHONE.

25 WE ASKED THE INVENTOR IN HIS DEPOSITION, AND HE SAYS HE

1 DOESN'T KNOW ANYONE WHO'S EVER USED THIS.

2 YOU KNOW, YOU HEARD SOMETHING THAT MR. MCELHINNY SAID THAT
3 AFTER WE SUED THEM, THEY REMOVED IT. DO YOU REMEMBER THIS?
4 AFTER WE SUED THEM, THEY REMOVED IT. CUSTOMERS COMPLAINED;
5 THEY PUT IT BACK.

6 THAT WAS A COMPLETE DISTORTION, FRANKLY.

7 WHAT HAPPENED IS THEY SUED ON A DIFFERENT SEARCH PATENT.
8 THEY SUED ON THE '604 PATENT, NOT THIS ONE, AND THEY WENT TO
9 COURT AND THEY GOT AN INJUNCTION AGAINST OUR DOING THIS TYPE OF
10 SEARCH. WE DIDN'T THINK IT WAS RIGHT. WE DIDN'T AGREE, BUT WE
11 COMPLIED. AND SO WE -- IT WASN'T HARD TO DO. I MEAN, WE
12 TURNED THAT OFF.

13 WE APPEALED IT, AND THE COURT OF APPEALS REVERSED AND SAID
14 WE WERE RIGHT, APPLE WAS WRONG, WE'RE ENTITLED TO DO IT, AND
15 THEN DROPPED THAT PATENT.

16 NOW, MR. MCELHINNY LEFT THAT OUT. HE DIDN'T TELL YOU THAT
17 PART OF THE STORY.

18 NOW, WE DID PUT THAT FEATURE BACK IN THE PHONE, BACK IN
19 ANDROID. GOOGLE DID THAT. SAMSUNG DID THAT, NOT BECAUSE IT'S
20 A WILD, WILDLY POPULAR FEATURE THAT PEOPLE NEED TO SEARCH THE
21 PHONES AND THE INTERNET AT THE SAME TIME.

22 IT TURNS OUT, YOU KNOW, GOOGLE CAN TRACK THIS. THE FOLKS
23 AT GOOGLE WILL TELL YOU THAT WHEN YOU GET RESULTS FROM BOTH, ON
24 THE INTERNET AND USING THIS PHONE AND THE FEATURE, IT'S
25 SOMETHING LIKE ONE OUT OF 50 TIMES THAT PEOPLE TAP ON SELECT

1 THE PHONE RESULT. IT'S JUST NOT THAT BIG A DEAL. IT'S ONE OF
2 MANY, MANY FEATURES AND WE INCLUDE IT AND WE THINK WE'RE
3 ENTITLED TO INCLUDE IT.

4 WE DO IT IN A VERY, VERY DIFFERENT WAY THAN THEIR PATENT
5 REQUIRES. THERE'S SOMETHING CALLED A HEURISTIC, WHICH I NEVER
6 HEARD OF BEFORE I GOT IN THIS CASE, BUT THERE'S A RULE CALLED A
7 HEURISTIC WHICH MEANS, IT'S AN ENGINEERING OR SOFTWARE TERM
8 WHICH MEANS BASICALLY A RULE OF THUMB OR SOMETHING THAT'S GOOD
9 ENOUGH. IT'LL GIVE YOU AN ANSWER TO THIS, GOOD ENOUGH, KIND OF
10 RULE OF THUMB, AND THEIR PATENT REQUIRES THAT YOU MUST SEARCH
11 IN TWO PLACES AND YOU MUST USE HEURISTICS TO SEARCH IN TWO
12 PLACES, BOTH LOCALLY AND ON THE INTERNET.

13 AND THEY WILL POINT TO A HEURISTIC ON THE LOCAL SEARCH IN
14 ANDROID, BUT THERE ISN'T ONE ON THE INTERNET BECAUSE GOOGLE
15 USERS, NOT SURPRISINGLY, THE RESULTS ARE GOOGLE'S SUGGESTIONS
16 THAT COME TO THE PHONE AND THAT'S NOT A HEURISTIC AT ALL. SO
17 YOU'LL SEE THERE REALLY ISN'T INFRINGEMENT THERE.

18 THERE IS PRIOR ART, SOMETHING CALLED WAIS, W-A-I-S, WHERE
19 AN M.I.T. PROFESSOR, DR. MARTIN RINARD, WILL TESTIFY ABOUT HOW
20 THIS HAD BEEN DONE BEFORE.

21 AGAIN, WHEN THIS PATENT ISSUED, THE PATENT OFFICE DID NOT
22 KNOW ABOUT WAYS.

23 FINAL CATEGORY OF DAMAGES I HAVEN'T HAD A CHANCE TO
24 MENTION YET -- I'VE MENTIONED AT VARIOUS POINTS THE LOST
25 PROFITS WHERE THEY SAY THEY WOULD HAVE SOLD MORE PHONES, AND WE

1 WOULD HAVE SOLD LESS BUT FOR THE USE OF THESE FEATURES. I'VE
2 MENTIONED THE REASONABLE ROYALTY.

3 ANOTHER CATEGORY OF DAMAGES THEY'RE SEEKING IS THEY CALL
4 BLACKOUT PERIOD OR OFF THE MARKET DAMAGES. AND BASICALLY THE
5 THEORY OF THIS IS THEY SAY THEY'RE ENTITLED TO \$508 MILLION OF
6 THE 2 BILLION BECAUSE THEY SAY, WELL, SAMSUNG WOULD HAVE TO
7 TAKE UP TO FOUR MONTHS TO FIGURE OUT ANY ALTERNATIVE TO THREE
8 OF THESE PATENTED FEATURES. IT WOULD TAKE US FOUR MONTHS, AND
9 WE WOULD HAVE TO TAKE OUR PHONES OFF THE MARKET. WE COULDN'T
10 BE SELLING THESE PHONES FOR FOUR MONTHS, AND WHILE SAMSUNG IS
11 GONE, APPLE WILL SELL A LOT MORE PHONES. ALL RIGHT. SO THAT'S
12 HOW THEY GET THE \$508 MILLION.

13 WELL, LET ME TELL YOU SOMETHING.

14 IF WE LOOK AT SLIDE 109.

15 THE IDEA THAT WE NEED FOUR MONTHS TO COME UP WITH SOME
16 ALTERNATIVE IF, IN FACT, WE INFRINGE THESE AND THEY WERE
17 INVALID -- THAT THEY WERE VALID IS JUST NONSENSE.

18 YOU HAVE SEEN THAT WE HAVE A WORD SUGGESTION FEATURE,
19 WHICH THEY ADMIT IS NOT INFRINGING. IT'S BEEN ON THE SAMSUNG
20 DART PHONE, WHICH IS AVAILABLE AND COULD BE USED AT ANY TIME.
21 WE DON'T NEED FOUR MONTHS TO PUT THAT IN PHONES.

22 WE HAVE OTHER VERSIONS OF LOCK SCREENS, YOU KNOW, THE
23 RIPPLE. YOU SAW THAT, THE ONE THAT'S LIKE THE WATER.

24 IT WOULD TAKE US, THE TESTIMONY WILL BE, AT MOST FOUR DAYS
25 TO IMPLEMENT AN ALTERNATIVE TO THE ANALYZER SERVER PATENT.

1 SO THERE REALLY IS -- THERE WOULD BE NO BASIS OF ANY AWARD
2 FOR OFF THE MARKET OR BLACKOUT PERIOD DAMAGES.

3 YOU'RE GOING TO HEAR, WITH RESPECT TO REASONABLE ROYALTY,
4 WHICH I TALKED ABOUT A LITTLE BIT EARLIER, REMEMBER THE \$40.10
5 A PHONE THEY'RE ASKING FOR WHICH TRANSLATED, IF YOU COUNT ALL
6 THE PATENTS, TO SOMETHING LIKE A \$24,000 PHONE.

7 YOU'LL HEAR FROM DR. CHEVALIER, OUR EXPERT, AND SHE DID AN
8 ANALYSIS ABOUT WHAT IS THE APPROPRIATE METHOD OF FIGURING OUT,
9 IF ANY ROYALTY, REASONABLE ROYALTY, IF ANY ROYALTY WAS OWING
10 HERE, WHAT IT WOULD BE.

11 AND SHE DID A STUDY. YOU'LL HEAR FROM HER, AND SHE
12 CONCLUDES THAT FOR ALL FIVE OF THESE, 35 CENTS ALL OF THEM
13 ALTOGETHER. SHE LOOKS AT REVIEWS OF SAMSUNG PRODUCTS AND
14 WEBSITES ON AMAZON AND SHE SAYS THERE'S NO MENTION OF THESE
15 FEATURES. IT'S NOT LIKE PEOPLE ARE WILDLY POPULAR -- EXCITED
16 ABOUT THEM.

17 SHE COMPARED THE PROFITABILITY OF THE PRODUCTS WITH THE
18 FEATURES AND WITHOUT THE FEATURES AND CONCLUDED THAT, YOU KNOW,
19 AT LEAST THE WORD SUGGESTION IN SLIDE TO LOCK CLAIMS HAVE NO
20 VALUE AT ALL BECAUSE SAMSUNG'S MOST PROFITABLE PHONES, THE
21 S III AND THE GALAXY NOTE, DON'T -- AREN'T EVEN ACCUSED.

22 SHE LOOKS AT WHAT APPLE TOLD THE GOVERNMENT ITS SOFTWARE
23 WAS WORTH. AND WHAT DID APPLE TELL THE GOVERNMENT IT TURNS OUT
24 WAS COMPLETELY INCONSISTENT.

25 AM I RUNNING OUT OF TIME? THANK YOU.

1 SO YOU'RE GOING TO HEAR FROM HER THAT WHAT APPLE TELLS THE
2 GOVERNMENT THE SOFTWARE IS WORTH IS VERY INCONSISTENT. SHE
3 LOOKS AT APPLE'S OWN PRIOR REPRESENTATIONS TO COURTS ABOUT WHAT
4 ITS SOFTWARE IS WORTH. SHE LOOKED AT, YOU KNOW, WHAT'S THE
5 MARKETPLACE, WHAT ARE PEOPLE PREPARED TO PAY FOR APPLICATIONS
6 ON SMARTPHONES.

7 THE MOST POPULAR ANDROID APPLICATION IS SOMETHING CALLED
8 SWIFT KEY. PEOPLE PAY 24 CENTS A UNIT FOR THAT.

9 SO AFTER CONSIDERING ALL THOSE FACTORS, SHE SAYS 35 CENTS
10 A UNIT, AND IF THERE'S A LUMP SUM ROYALTY PAYMENT, IF ONE WERE
11 OWING -- AGAIN, WE DON'T THINK THERE'S ANY INFRINGEMENT, FOR
12 FOUR OF THE FIVE PATENTS, WE DON'T THINK THEY'RE VALID, BUT IF
13 THERE WERE INFRINGEMENT, IF THEY'RE VALID AND IF A ROYALTY WAS
14 OWING, \$39.2 MILLION IS WHAT SHE SAYS IS THE MAXIMUM.

15 SO IN THE BRIEF TIME I'VE GOT LEFT, LET ME TALK A LITTLE
16 BIT ABOUT SAMSUNG'S PATENT CLAIMS AGAINST APPLE. AND, FRANKLY,
17 NORMALLY WE AT SAMSUNG DON'T SUE OVER PATENTS LIKE THESE.
18 COUNSEL, I AGREE WITH MR. LEE ON THAT, WE DON'T ORDINARILY SUE
19 ON PATENTS LIKE THESE.

20 YOU KNOW, IN THE PRE-HOLY WAR DAYS, WHAT WOULD HAPPEN IN
21 THIS INDUSTRY IS THAT COMPANIES WOULD GET TOGETHER AND ENTER
22 INTO CROSS-LICENSE AGREEMENTS FOR THEIR ENTIRE PORTFOLIOS.
23 THEY WOULD WORK OUT A DEAL AND LEARN TO CO-EXIST.

24 THAT'S WHAT USED TO HAPPEN.

25 BUT WE DID GET SUED, AND SO WE THOUGHT IT WAS APPROPRIATE

1 TO DEFEND OURSELVES.

2 BUT WE UNDERSTAND HOW THIS HAPPENS SOMETIMES. PEOPLE END
3 UP STEPPING ON EACH OTHER TOES WITH SIMILAR SOLUTIONS TO
4 PROBLEMS.

5 I'M SORRY. I'M LOSING MY VOICE.

6 YOU HAVE ENGINEERS FOR THOSE SAME SCHOOLS, MAYBE STANFORD,
7 BERKELEY, THEY STUDY ENGINEERING. THEY OWN THE SMARTPHONE
8 BUSINESS. THEY GO TO WORK FOR COMPANIES LIKE GOOGLE AND APPLE.
9 THEY FACE THE SAME PROBLEM. THEY'RE TRYING TO MAKE A PHONE
10 EASY TO USE, TRYING TO MAKE IT EFFECTIVE, FAST, ADDRESSING THE
11 SAME PROBLEMS, AND SOMETIMES THEY MAY END UP COMING UP WITH
12 SIMILAR SOLUTIONS AND END UP STEPPING ON EACH OTHER TOES. THAT
13 SOMETIMES HAPPENS.

14 AND IN THAT SAME WAY, APPLE HAS STEPPED ON SAMSUNG'S TOES
15 BY USING SAMSUNG'S VIDEO TRANSMISSION AND VIDEO ALBUM PATENTS.

16 AND WHEN THAT HAPPENS, AND IT DOES HAPPEN, IT'S NOT A HOLY
17 WAR, OR IT SHOULDN'T BE. IT'S A SIMPLE THAT THE LAW PROVIDES A
18 REMEDY AND IT'S A SIMPLE ECONOMIC TRANSFER, THAT THERE SHOULD
19 BE A PAYMENT FROM THE COMPANY THAT WAS USING THE TECHNOLOGY
20 THAT DIDN'T HAVE A RIGHT TO, TO THE COMPANY THAT OWNED THE
21 TECHNOLOGY AND DID HAVE A RIGHT TO IT.

22 IT'S NOT ABOUT PUNISHING. IT'S NOT ABOUT PUNISHING THE
23 WRONG DOER.

24 BUT HERE YOU'LL SEE APPLE IS DOING SOMETHING DIFFERENT.
25 IT'S SEEKING MASSIVE DAMAGES ON THE FICTION THAT THEY'VE LOST

1 SALES BECAUSE OF VERY SMALL FEATURES THAT YOU WILL LEARN HAVE
2 NO IMPACT ON SALES AT ALL.

3 NOW, I'M GOING TO SHOW YOU HOW WE CALCULATE THE ROYALTY
4 THAT IS OWING FOR THEIR INFRINGEMENT OF OUR TWO PATENTS, AND WE
5 WILL DO IT REASONABLY.

6 AND I'LL JUST NOTE, THEY'RE NOT CHALLENGING THE VALIDITY
7 OF EITHER ONE OF THEIR PATENTS. BOTH OF THOSE PATENTS ARE
8 DEEMED VALID FOR PURPOSES OF ALL YOUR DECISION MAKING.

9 SO FIRST THE FACETIME PATENT FROM THE '239, AND THIS
10 RELATES TO TRANSMITTING COMPRESSED VIDEO FOOTAGE. AND THIS IS
11 A PATENT THAT WAS WAY AHEAD OF ITS TIME.

12 LONG BEFORE MOST PEOPLE EVEN HAD MOBILE PHONES, THE
13 INVENTORS OF THIS PATENT FIGURED OUT A WAY TO TRANSMIT VIDEO
14 FROM REMOTE LOCATIONS BY COMPRESSING VIDEO IN REAL TIME SO IT
15 COULD TRANSMIT QUICKLY WITHOUT INTERRUPTION.

16 AND YOU WILL HEAR FROM OUR EXPERT, DR. SCHONFELD, DR. DAN
17 SCHONFELD FROM THE UNIVERSITY OF CHICAGO WHO WILL EXPLAIN TO
18 YOU THAT APPLE HAS, IN FACT, INFRINGED THIS PATENT. YOU KNOW,
19 THERE ARE TWO KEY TERMS IN THIS PATENT. THE FIRST IS THAT
20 IT -- IT SAYS IT INCLUDES A COMPUTER WITH A VIDEO CAPTURE
21 MODULE TO CAPTURE THE COMPRESSED VIDEO IN REAL TIME. APPLE'S
22 PRODUCTS, AS WELL AS SAMSUNG PRODUCTS, INCLUDE BOTH CAMERAS AND
23 COMPONENTS THAT CAPTURE VIDEO.

24 THE SECOND TERM IS THERE MUST BE A MEANS FOR TRANSMISSION
25 OF THE VIDEO. DR. SCHONFELD WILL SHOW YOU THAT THERE WAS A

1 MEANS FOR -- THAT BOTH THOSE TERMS ARE SATISFIED.

2 THE APPLE FUNCTIONALITIES THAT INFRINGE INCLUDE FACETIME,
3 FACETIME FEATURE INFRINGES VIDEO, THROUGH VIDEO CONFERENCING.
4 BY THE WAY, A FEATURE THAT APPLE HAS PROMOTED VERY, VERY
5 HEAVILY, UNLIKE, YOU KNOW, THE FIVE MINOR SOFTWARE FEATURES
6 THAT THEY'RE SUING SAMSUNG ON.

7 AND IT ALSO INFRINGES BY THE ABILITY ON APPLE -- THE
8 FUNCTIONALITY THAT PERMITS YOU TO TAKE VIDEOS AND TRANSMIT THEM
9 USING E-MAIL AND MESSAGING ON THE IPHONE.

10 NOW, MR. LEE MADE A BIG TO DO ABOUT THE FACT THAT WE
11 BOUGHT THIS PATENT. IT'S TRUE. WE DID BUY THIS PATENT. WE
12 BOUGHT IT FROM A VERY CREATIVE FAMILY, THE FREEMANS WHO LIVE IN
13 TULSA, OKLAHOMA.

14 IT'S KIND OF AN INTERESTING STORY BEHIND IT. THEY
15 ORIGINALLY INVENTED THIS IN ORDER TO, YOU KNOW -- THEY LIVE IN
16 AN AREA WHERE THERE'S LOTS OF TORNADOS, AND THEY HAD THE
17 ABILITY TO TRANSFER VIDEO OF TORNADOS TO TV STATIONS AND THINGS
18 LIKE THAT.

19 WHAT'S IMPORTANT TO KNOW IS IT'S NOT IMPORTANT. IT'S NOT
20 A DEFENSE IN A PATENT CASE THAT A PATENT HAS BEEN PURCHASED.
21 APPLE PURCHASES PATENTS, VOICE RECOGNITION SOFTWARE FROM SIRI.
22 I MEAN, THAT'S ABSOLUTELY IRRELEVANT WHETHER OR NOT THE PATENT
23 WAS PURCHASED.

24 SAMSUNG CHOSE THIS PATH BECAUSE OF HOW IMPORTANT AND
25 INNOVATIVE IT WAS.

1 THEY ALSO TOLD YOU THAT THE PATENT HAS NOW EXPIRED.
2 THAT'S TRUE. THAT ALSO DOESN'T MATTER. WE'RE SEEKING DAMAGES
3 FOR THE PERIOD WHEN THE PATENT WAS ACTIVE, WHICH IS PERFECTLY
4 APPROPRIATE, PERFECTLY RIGHT. WE'RE ENTITLED TO DO THAT.

5 THE OTHER PATENT, THE '449, VIDEO ALBUMS PATENT, THIS
6 RELATES TO AN INVENTION THAT THE COMPANY HITACHI CAME UP WITH
7 BACK IN 1997 WHERE THEY CAME UP WITH A REVOLUTIONARY DIGITAL
8 CAMERA THAT WOULD PERMIT YOU TO COMPRESS AND STORE HUNDREDS OF
9 PHOTOGRAPHS AND VIDEOS.

10 IN EARLIER CAMERAS, YOU COULD ONLY STORE LIKE TEN PICTURES
11 AND YOU COULDN'T STORE ANY VIDEOS AT ALL. THIS HITACHI CAMERA
12 USED CUTTING EDGE TECHNOLOGY TO PERMIT YOU TO STORE SO MANY ON
13 THE CAMERA THAT YOU COULDN'T KEEP TRACK OR FIND OUT WHERE THEY
14 WERE.

15 SO THIS IS KIND OF A NIFTY, IF YOU WANT, EASY TO USE
16 FEATURE THAT HITACHI INVENTED. IT SOLVED THE PROBLEM BY
17 BUILDING FOLDERS RIGHT INTO THE CAMERA TO MAKE IT EASIER TO
18 MANAGE AND TO LOCATE THE PHOTOS AND THE VIDEOS.

19 YOU'LL SEE THAT ON THE LEFT-HAND SIDE HERE, YOU'LL SEE ONE
20 OF THOSE FIGURES FROM THE PATENT. YOU'LL SEE THERE'S A LIST OF
21 ALBUMS HERE. IT'S KIND OF AN ENGINEER'S DRAWING, AND PART OF
22 THE PATENT IS THAT YOU ACTUALLY NUMBER, YOU CAN NUMBER THE
23 ACTUAL NUMBER OF PHOTOGRAPHS THAT ARE THERE.

24 AND THEN ON THE RIGHT-HAND SIDE, YOU'LL SEE THE ALBUMS,
25 YOU KNOW, SAME FUNCTIONALITY ON THE IPHONE.

1 AND DR. KEN PARULSKI, WHO HAS AN ADVANCED DEGREE FROM
2 M.I.T., WIDELY RECOGNIZED PIONEER IN DIGITAL PHOTOGRAPHY, WILL
3 COME HERE AND WALK YOU THROUGH THESE CLAIMS AND SHOW YOU HOW
4 APPLE INFRINGES THIS PATENT.

5 SO BECAUSE THESE TWO PATENTS ARE INFRINGED, SAMSUNG IS
6 ENTITLED TO DAMAGES, AND THOSE DAMAGES, AGAIN, TAKE THE FORM OF
7 A REASONABLE ROYALTY.

8 UNLIKE THE MINOR SOFTWARE PATENTS APPLE HAS SUED ON, THE
9 VIDEO PATENT, THE '239 PATENT INCLUDES VERY IMPORTANT FEATURES
10 THAT RELATE TO THE TRANSMISSION OF VIDEO WHICH APPLE HAS VERY
11 HEAVILY PROMOTED, FACETIME OVER CELLULAR.

12 ALSO E-MAIL, TRANSMISSION OVER E-MAIL, THROUGH TEXT.

13 THIS IS SOMETHING THAT'S BEEN VERY -- THAT IS, IN FACT,
14 SOMETHING VERY IMPORTANT. IT'S SOMETHING THAT IS ADVERTISED,
15 AND YOU LOOK AT THOSE -- I SHOWED YOU THE IPHONE CONSUMER
16 SURVEY, WHAT FEATURES PEOPLE FOCUS ON. I DON'T KNOW IF YOU SAW
17 IT. FACETIME WAS ONE OF THEM. THAT'S ONE THAT ACTUALLY DOES
18 RISE TO THE LEVEL OF SOMETHING PEOPLE TAKE NOTE OF.

19 THE OTHER, THE VIDEO ALBUMS PATENT, IT'S A MORE -- YOU
20 KNOW, IT'S A USEFUL BUT MORE LIMITED FEATURE, BUT IT'S
21 VALUABLE.

22 AND WE HAVE DR. KEARL, JAMES KEARL, WHO'S A TRAINED
23 ECONOMIST AT M.I.T., WHO DETERMINED THAT APPLE WOULD HAVE PAID
24 \$6.9 MILLION FOR A LICENSE IN A NEGOTIATION.

25 AND, YOU KNOW, IT'S -- I FOUND MR. LEE'S ARGUMENT

1 SURPRISING, THE FACT THAT, YOU KNOW, WE'RE SUING AND ONLY
2 ASKING FOR \$158,000, OR WE'RE ONLY ASKING FOR \$6.78 MILLION
3 SOMEHOW MEANS THAT WE DON'T RESPECT PATENTS OR THAT WE DON'T
4 CARE ABOUT PATENTS, THAT THE SUGGESTION SEEMED TO BE THAT IF
5 YOU AREN'T ASKING FOR BILLIONS, YOU'RE NOT TAKING PATENTS
6 SERIOUSLY.

7 YOU WILL SEE -- THE EVIDENCE IN THIS CASE WILL SHOW YOU
8 THAT THEIR BILLION DOLLAR NUMBERS ARE COMPLETELY UNSUPPORTED.
9 THEY ALL TIE BACK TO THAT UNRELIABLE HAUSER SURVEY, AND THEY'RE
10 PUTTING THOSE NUMBERS OUT THERE JUST TO TRY TO GET THEM IN YOUR
11 HEAD.

12 AND WE WILL SHOW YOU HOW PROPERLY TO CALCULATE A ROYALTY
13 ON THESE, YOU KNOW, ON THESE PATENTS WHICH APPLE HAS INFRINGED.

14 DR. KEARL CALCULATED THESE DAMAGES. IF WE LOOK AT SLIDE
15 125. HE STARTED WITH SOME REAL WORLD DATA, AND HE HAD SOME
16 ACTUAL DATA THAT HE COULD RELY ON.

17 THERE WAS A TIME WHEN FACETIME WAS FIRST INTRODUCED WHERE
18 APPLE ACTUALLY SOLD THAT AS AN APP ON THE MAC, AND IT WAS A
19 HUGE SUCCESS . PEOPLE BOUGHT IT. IT COST 99 CENTS.

20 SO THERE'S A POINT, YOU KNOW, A REAL WORLD DATA POINT THAT
21 DR. KEARL COULD WORK WITH, WHAT WOULD PEOPLE PAY FOR THIS?
22 WHAT IS IT WORTH?

23 AND YOU'LL SEE, HE WILL EXPLAIN TO YOU HOW HE THEN DID
24 MARKET STUDIES COMPARING THAT TO OTHER FEATURES, OVER TEXTING,
25 OVER E-MAIL IN THE VIDEO ALBUMS PATENT AND CAME UP WITH THE

1 NUMBERS WHICH I SHOWED YOU.

2 NOW, HERE'S THE IRONY: ALTHOUGH THE 6.78 MILLION THAT
3 SAMSUNG IS ASKING FOR FOR THESE TWO PATENTS IS A FRACTION OF
4 WHAT APPLE IS ASKING FOR ON ITS PATENTS, APPLE SAYS THAT 6.78
5 MILLION IS FAR TOO MUCH.

6 APPLE IS SAYING THAT. IT'S TELLING YOU THAT EVEN
7 ASSUMING, EVEN ASSUMING IT INFRINGES THE '239 PATENT BY USING
8 FACETIME, A FEATURE THAT APPLE VERY HEAVILY PROMOTED AS A
9 MARQUEE FEATURE, IT SHOULD PAY LESS THAN 6.78 MILLION.

10 AT THE SAME TIME, FOR MUCH MORE MINOR FEATURES, THEY'RE
11 SEEKING BILLIONS. IT'S THAT SIMPLE.

12 ONE THING THEY'RE CORRECT ON. THESE TYPES OF FEATURES
13 AREN'T WORTH HUNDREDS OF MILLIONS OF DOLLARS. THEY DON'T MAKE
14 A SIGNIFICANT DIFFERENCE IN SALES. THEY HAVE VERY LIMITED
15 VALUE. IN THIS CASE, DR. KEARL DETERMINED THAT THAT WAS \$6.78
16 MILLION.

17 SO JUST TO WRAP UP, YOU'VE HEARD APPLE'S LAWYERS SAY THAT
18 SAMSUNG IS TAKING SALES AWAY FROM APPLE BECAUSE IT HAS THESE
19 FEATURES THAT CUSTOMERS WANT AND THAT IF SAMSUNG DIDN'T HAVE
20 THESE FEATURES, SAMSUNG WOULD SELL FEWER PHONES AND APPLE WOULD
21 SELL MORE.

22 APPLE ITSELF DOESN'T EVEN USE FOUR OF THE FIVE. THEY
23 AGREE AS TO THREE. WE HAVE TO PROVE TO YOU THE FOURTH, THE
24 SLIDE TO UNLOCK.

25 YOU CAN'T GET THOSE FEATURES BY BUYING AN APPLE PRODUCT.

1 THEY'RE NOT IN A PRODUCT. THEY DON'T USE THEM.

2 APPLE WANTS YOU TO BELIEVE THAT THESE CLAIMS ARE WORTH
3 OVER \$2 BILLION EVEN THOUGH THEY ARE NOT VALUABLE ENOUGH FOR
4 APPLE TO USE.

5 A VERY MUCH MORE COMMON SENSE EXPLANATION AS TO WHY A
6 PATENT CLAIM IS NOT ADVERTISED OR LICENSED OR USED IS NOT
7 BECAUSE IT'S WORTH VERY MUCH, BUT BECAUSE IT'S WORTH VERY
8 LITTLE.

9 THE CLAIMS, THESE APPLE PATENT CLAIMS ARE ORDINARY WAYS TO
10 DO ORDINARY THINGS THAT HAVE BEEN, CAN BE, AND ARE BEING DONE
11 DIFFERENTLY.

12 ANDROID IS IPHONE'S MAIN COMPETITOR, AND GOOGLE IS AN
13 APPLE OBSESSION. APPLE'S WHOLE FOCUS IS TO BEAT GOOGLE'S
14 ANDROID, AND THAT IS THE PURPOSE OF THIS LAWSUIT.

15 APPLE HERE IS SINGLING OUT, SINGLING OUT, FROM ALL OF THE
16 ANDROID POWERED HANDSET MANUFACTURERS, IT'S SINGLING OUT THE
17 MOST SUCCESSFUL MANUFACTURER'S PRODUCTS THAT RUN ON ANDROID,
18 SAMSUNG, AND TRYING TO CAPTURE THE PROFITS IT MADE FROM SELLING
19 ANDROID CELL PHONES AND TABLETS.

20 HOW DO YOU KNOW THIS IS TRUE, THIS GALAXY NEXUS PHONE
21 WHICH THEY'RE SUING OVER AND THEY ACCUSE? NOTHING IN THE
22 HARDWARE. THEY DON'T ACCUSE ANYTHING IN THE HARDWARE. THE
23 SOFTWARE IS PURE ANDROID.

24 APPLE IS TARGETING NEXUS'S PURE SAMSUNGLESS SOFTWARE.
25 THAT'S WHAT THIS LAWSUIT IS ABOUT.

1 JUST HAVING ANDROID DID NOT GUARANTEE SAMSUNG'S SUCCESS.
2 THERE ARE MANY DIFFERENT MANUFACTURERS THAT MAKE ANDROID
3 PRODUCTS. SAMSUNG'S UNIQUE SUCCESS IN THE ANDROID WORLD WAS
4 NOT IN THE THINGS THAT WERE THE SAME, BUT THE THINGS THAT WERE
5 DIFFERENT, LIKE THE INNOVATION, QUALITY, SELECTION, BUSINESS
6 STRATEGY, OFFERING A LARGE VARIETY OF DIFFERENT PHONES AT MANY
7 DIFFERENT PRICE POINTS, THE PROMOTION, THE DEVELOPMENT, THE
8 BRAND, ALL OF THE RESULTS OF THE HARD WORK FROM THE PEOPLE AT
9 SAMSUNG.

10 LOTS OF PEOPLE, LOTS OF COMPANIES USE ANDROID, BUT NONE OF
11 THEM ARE SELLING NEARLY AS MANY PHONES AS SAMSUNG.

12 SAMSUNG'S SUCCEEDS WHERE OTHERS HAVEN'T BECAUSE OF
13 SAMSUNG'S HARDWARE.

14 IT IS THE SAMSUNG DIFFERENCE -- IT'S THE SAMSUNG
15 DIFFERENCE MAKING CONTRIBUTIONS THAT SELL PHONES AND MAKE IT
16 FAR AND AWAY THE MOST SUCCESSFUL ANDROID -- THE MOST SUCCESSFUL
17 MANUFACTURER IN THE ANDROID WORLD.

18 APPLE DOES NOT ACCUSE THOSE DIFFERENT MAKING HARDWARE
19 FEATURES OF INFRINGEMENT. APPLE IS NOT ENTITLED TO THE PROFIT
20 ON THESE PHONES, PHONES WHICH PEOPLE BOUGHT BECAUSE THEY CARE
21 ABOUT BIG SCREENS, STYLUSES, SUPER HD, AMOLED SCREENS, HIGH
22 QUALITY CAMERAS, AND THE OTHER THINGS THAT YOU COULD ONLY GET
23 ON THAT SAMSUNG PHONE. THE MONEY THAT CONSUMERS SPENT SHOULD
24 BE LEFT WHERE THEY SPENT IT.

25 THANK YOU VERY MUCH.